United States Court of Appeals

for the Second Circuit

APPENDIX

76-4170

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

DOCKET NO. 76-4170

EDWARD M. GILBERT,

Appellant,

- against -

COMMISSIONER OF INTERNAL REVENUE,

Appellee.

ON APPEAL FROM THE UNITED STATES TAX COURT

APPENDIX

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Washington, D.C. 20530

UNITED STATES COURT OF APPEALS
FILED
NOV 22 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

PAGINATION AS IN ORIGINAL COPY

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UNITED STATES TAX COURT
GENERAL DOCKET

1-A

6426-72

DOCKET NO.

EDWARD M. GILBERT

525 Park Avenue

New York, N.Y. 10021 PETITIONER,

VS.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

APPEARANCES FOR PETITIONER:
NAME Frank G. Raichle, 10 Lafayette Square, Buffalo, N.Y., 14203 , (Raichle, Banning, Weiss & Halpern)
ADDRESS

Date Month Day Year	Filings and Proceedings	Action	Served
Aug. 9, 1972	PETITION FILED: FEE PAID Aug. 9, 1972		Aug. 11, 1972
Aug. 9, 1972	REQUEST by Petr. for trial at New York, N.Y. filed.	GRANTED Aug. 11, 1972	Aug. 11, 1972
Oct 10, 1972	ANSWER filed by Resp		Oct 11, 1972
Jan. 14, 1974	NOTICE OF TRIAL on April 16, 1974 at New York , N.Y.		Jan. 14, 197
Apr. 16, 1974	HEARING at New York, N.Y. before Judge Scott.		
	Joint Motion for Continuance -GRANTED CONTINUED GENERALLY.		APR 29 1974
Dec. 18, 1974	NOTICE OF TRIAL on March 17, 1975 at New York, N. Y.		Dec. 18, 1974
Mar. 14, 1975	ORDER, that Petr's. request (informal) is granted and		MAR 19 1975
	case is stricken from Mar.17, 1975 at New York, N.Y.		
	It is further		
	ORDERED, that case is calendared for trial on April		
	14, 1975 at New York, N. Y. This order constitutes		
	official notice.		
Mar. 17, 1975	HEARING at New York, N. Y. before Judge Quealy.		
	Hearing Continued at Washington: See Order Dated		
	Mar. 14, 1975.		
April 7, 1975	TRANSCRIPT of Mar. 17, 1975 received.		
Apr. 14, 21, 22, 1975	TRIAL at New York, N.Y. before Judge Quealy.		
	(John E. Sprizzo recognized as counsel for Petr. at		
	Trial ...) (OVER)		

BEST COPY AVAILABLE

DOCKET NO. 6426-72

(Continuation)

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EDWARD M. GILBERT, PETITIONER

Date Month Day Year	Filings and Proceedings	Action	Served
Trial Minutes cont.	Stipulation of Facts filed 4/21/75.		
	Received Entry of Appearance by John E. Sprizzo as counsel for Petr.		
	Simultaneous Briefs: ORIGINAL BRIEFS DUE: June 6, 1975		
	REPLY BRIEFS DUE: July 7, 1975		
	SUBMITTED TO JUDGE QUEALY		
May 12, 1975	TRANSCRIPT of Apr. 21, 22, 1975 received.		
May 23, 1975	MOTION by Petr. for extension of time to June 27, 1975 within which to file Brief. (No Obj. Resp.)	GRANTED May 27, 1975	MAY 28 1975
June 23, 1975	SUPPLEMENTAL STIPULATION OF FACTS filed.		
June 23, 1975	MOTION by Petr. for further extension of time to July 21, 1975 within which to file Brief. (No Obj. Resp.)	GRANTED June 23, 1975	JUN 24 1975
July 17, 1975	MOTION by Petr. for further extension of time to and including Aug. 11, 1975 within which to file Brief. (No Obj. Resp.)	GRANTED July 22, 1975	JUL 23 1975
Aug. 5, 1975	BRIEF for Petr. filed. (C/S to Resp. on Aug. 2, 1975)		
Aug. 11, 1975	BRIEF for Resp. filed.		AUG 12 1975
Aug. 21, 1975	MOTION by Petr. for extension of time to Sept. 22, 1975 within which to file Reply Brief. (No Obj. Resp.)	GRANTED Aug. 25, 1975	AUG 26 1975
Sept. 19, 1975	MOTION by Petr. for further extension of time to Oct. 20, 1975 within which to file Reply Brief. (No Obj. Resp.)	GRANTED Sept.25, 1975	SEP 25 1975
Sept. 22, 1975	REPLY BRIEF for Resp. filed.		OCT 23 1975
Oct. 22, 1975	REPLY BRIEF for Petr. filed. (P.M. Timely)		OCT 23 1975
Dec. 16, 1975	MOTION by Resp. to Hold Opinion in Abeyance and Set for Report.	See Order Dated 3/23/76	

continued to page 3

UNITED STATES TAX COURT

GENERAL DOCKET

3- A

DOCKET NO. 6426-72

(Continuation)

EDWARD M. GILBERT — PETITIONER — PAGE 3

Date (Month Day Year)	Filings and Proceedings	Action	Served
Mar. 23, 1976	ORDER, that the testimony of Louis Goldenberg is to be totally disregarded and it shall not be considered in any way by Court in its determination of this case. It is further ORDER, that Resp's Motion filed on Dec. 16, 1975 is Denied.		MAR 24 1976
Apr. 1, 1976	MEMORANDUM FINDINGS OF FACT & OPINION filed, Judge Quealy. Decision will be entered for the resp.		APR 1 1976
April 1, 1976	DECISION ENTERED, Judge Quealy.		Apr. 1, 1976
	APPELLATE PROCEEDINGS		
June 17, 1976	ORDER fixing amount of bond at $2,917,462.59.		June 18, 1976
June 30, 1976	NOTICE OF APPEAL to U.S.C.A., 2nd Cir., filed by Petr.		July 1, 1976
July 1, 1976	NOTICE of Filing with copy of notice of appeal sent to Mr. Meade Whitaker, Chief Counsel.		July 1, 1976
July 1, 1976	NOTICE, to parties, of assembling and date for transmission of the record.		July 1, 1976

GPO : 1973—O-456-[illegible]

UNITED STATES TAX COURT

Submitted
4-21-75

4-A

EDWARD M. GILBERT,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 6426-72
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent.	)	

STIPULATION OF FACTS

The parties hereby stipulate and agree that for the purpose of this case the following facts and exhibits attached hereto and made a part hereof may be taken as true, subject to the rights of the parties to introduce other and further evidence not inconsistent with this stipulation and preserving the parties' rights to object, at the time of trial, to any and all portions of said stipulation and attached exhibits as they may deem irrelevant or immaterial.

1. Edward M. Gilbert, [hereinafter referred to as petitioner], resided at 525 Park Avenue, New York, New York 10021 at the time he filed his petition.

2. Attached hereto and marked Exhibit 1-A is a copy of petitioner's 1962 income tax return.

3. From September 1958 until June 12, 1962, the petitioner was first Chairman of the Executive Committee and later President, the principal executive officer and a director of E. L. Bruce Co., Inc., [hereinafter referred to as Bruce], and its predecessor corporations.

4. During this period petitioner was also the major stockholder of Bruce and a director and the principal executive officer of Rhodes Enterprises, Inc., [hereinafter referred to as Rhodes], all of whose issued and outstanding stock he beneficially owned. Petitioner also beneficially owned and controlled the Empire Hardwood Flooring Corp.

5. During 1960 Rhodes had borrowed substantial funds from Empire National Corporation, [hereinafter referred to as Empire]. At the end of that year Rhodes was indebted to Empire in the amount of approximately $302,000. This borrowing was reported to the Securities and Exchange Commission on a Form 10-K filed by Empire and was reported to all of the officers and directors of Empire and to its stockholders in the annual report of that corporation. Rhodes fully redeemed said loan and paid interest of 6% on or before April 4, 1961.

6. In September 1961 Empire was merged with Bruce.

7. Petitioner and his associates acquired control of Bruce in September of 1958, at which time Bruce's average annual gross sales were approximately $26,000,000 and its earnings less than $500,000.

8. By the spring of 1962 Bruce's annual gross volume was approximately $50,000,000 and its earnings had risen to approximately $2,000,000.

9. In 1961 and 1962 petitioner personally and Rhodes undertook the purchase of a large number of Celotex Corporation, [hereinafter referred to as Celotex], shares. On March 5, 1962 petitioner granted to Bruce an option to purchase these Celotex shares at his purchase price.

10. In addition to the shares purchased by petitioner, Bruce itself purchased substantial amounts of Celotex shares.

11. Petitioner also interested several persons who commanded large purchasing power in the participation by them in the Celotex acquisition program.

12. All of the Celotex stock acquired by petitioner and Rhodes was purchased on margin. Petitioner pledged all his holding of Bruce securities as collateral for loans to purchase Celotex.

13. During the latter part of May 1962, the stock market

that day petitioner was faced with margin calls in respect of the Celotex and Bruce securities, which he did not have the liquid resources to meet. He was bombarded by threats to sell out his holdings if additional funds were not immediately forthcoming.

14. Petitioner caused the secretary of Bruce to draw checks on Bruce's account sufficient to pay urgent and insistent margin calls which he was receiving. Certain of these checks were drawn to Rhodes or to Empire Hardwood Flooring Corp., which corporations later drew checks primarily to satisfy the margin calls.

15. On November 27, 1962 a consent judgment in favor of Bruce in the sum of $1,953,000 plus interest was entered against petitioner.

16. Attached hereto and marked Exhibit 2-B is a copy of the minutes of the regular meeting of the Board of Directors of Bruce on January 8, 1962.

17. Attached hereto and marked Exhibit 3-C is a copy of the minutes of the regular meeting of the Board of Directors of Bruce on March 5, 1962.

18. Attached hereto and marked Exhibit 4-D is a copy of the minutes of the special meeting of the Board of Directors of Bruce

on April 17, 1962.

19. Attached hereto and marked Exhibit 5-E is a copy of the minutes of the special meeting of the Board of Directors of Bruce on June 12, 1962.

20. Attached hereto and marked Exhibit 6-F is a copy of the 1960 Annual Report of Empire.

21. Attached hereto and marked Exhibit 7-G is a copy of relevant portions of a proxy statement and notice of special meeting of Empire.

22. Attached hereto and marked Exhibit 8-H are copies of promissory notes signed and delivered by petitioner to Bruce.

23. Attached hereto and marked Exhibit 9-I is a copy of an assignment with attached schedules dated May 28, 1962 which was signed and delivered by petitioner to Bruce.

24. Attached hereto and marked Exhibit 10-J is a copy of assignment with attached schedules dated November 5, 1962 which was signed and delivered by petitioner to Bruce.

25. Attached hereto and marked Exhibit 11-K is the relevant portion of Form 10-K of Empire filed with the Securities and Exchange Commission.

26. Attached hereto and marked Exhibit 12-L is a copy of a notice of assessment issued pursuant to Int. Rev. Code of 1954,

§ 6851 by the District Director's Office to petitioner dated June 25, 1962 which assessment is for the amount of $1,723,776 regarding the year 1962.

27. Attached hereto and marked Exhibit 13-M is a Certificate of Assessment and Payments dated February 27, 1975 showing payments made by petitioner in the amount of $42,916.39 and $8,625.47 credited to the year 1962.

28. On June 28, 1962, a fifteen-count indictment was filed against petitioner in the United States District Court for the Southern District of New York relating to the misappropriation of corporate funds of Bruce and violations of the Securities laws. Attached hereto and marked Exhibit 14-N is a copy of said indictment.

29. On September 25, 1964, petitioner entered a plea of guilty to counts 1, 5 and 7 regarding the indictment referred to in paragraph 28 above.

30. On July 9, 1962, a New York County grand jury indicted petitioner for twelve counts of grand larceny in the first degree. Attached hereto and marked Exhibit 15-O is a copy of said indictment.

31. On February 2, 1967 petitioner entered a plea of guilty to counts 5, 6 and 10 regarding the indictment referred to in

paragraph 30 above.

32. Between May 28 and June 6, 1962, petitioner made unauthorized withdrawals of $1,958,000 by drawing checks on the account of Bruce and depositing the funds in the account of either Rhodes or Empire Hardwood Flooring Corporation. The dates, amounts and payees of these checks are as follows:

Check Number	Date	Amount	Payee
256	May 28, 1962	$ 50,000	Rhodes Enterprises, Inc.
257	May 29, 1962	200,000	Empire Hardwood Flooring Corp.
258	May 29, 1962	205,000	Empire Hardwood Flooring Corp.
2146	May 29, 1962	340,000	Rhodes Enterprises, Inc.
2151	June 1, 1962	490,000	Rhodes Enterprises, Inc.
2163	June 1, 1962	126,000	Rhodes Enterprises, Inc.
2168	June 5, 1962	100,000	Rhodes Enterprises, Inc.
2170	June 6, 1962	160,000	Rhodes Enterprises, Inc.
2174	June 6, 1962	287,000	Rhodes Enterprises, Inc.

All of these checks cleared the banks and were charged against the account of Bruce. On June 5, 1962, Empire Hardwood Flooring Corporation repaid $5,000 to Bruce.

33. Attached hereto and marked Exhibit 16-P are copies of checks referred to in paragraph 31 above.

34. The disposition of the withdrawals from Bruce referred to in paragraph 32 above were as follows:

Check Number	Date	Amount	Payee
614	May 29, 1962	$ 55,000	Jerome International Corp.
615	May 29, 1962	145,000	Rhodes Enterprises, Inc.
616	May 29, 1962	200,000	Rhodes Enterprises, Inc.
618	June 5, 1962	5,000	E. L. Bruce Co., Inc.

Disposition of withdrawals by Rhodes include the following:

Check Number	Date	Amount	Payee
1034	May 28, 1962	$100,000	Dutch American Mercantile
1035	May 29, 1962	100,000	Jacques Sarlie
1038	May 29, 1962	100,000	Dutch American Mercantile
1040	May 29, 1962	200,000	Chemical Bank, N.Y., A/C Ufitec
1041	May 29, 1962	6,600	Frances Farr
1042	May 29, 1962	7,400	Norman Adolf
1043	May 29, 1962	165,000	Vanden Broeck, A/C Ufitec
1044	May 31, 1962	100,000	Jacques Sarlie
1045	May 31, 1962	6,200	Irwin Polivy
1047	June 1, 1962	100,000	Dutch American Mercantile A/C Ficomer
1048	June 1, 1962	50,000	Dutch American Mercantile
1049	June 1, 1962	50,000	Dutch American Mercantile
1050	June 1, 1962	50,000	Joseph Danon and Co.
1051	June 1, 1962	100,000	Dutch American Mercantile
1052	June 1, 1962	50,000	Dutch American Mercantile
1053	June 1, 1962	50,000	Dutch American Mercantile
1054	June 1, 1962	100,000	Jaeques Sarlie
1055	June 1, 1962	50,000	Edward M. Gilbert
1056	June 1, 1962	100,000	Hollandish Bank, A/C Ufitec
1057	June 1, 1962	24,500	Irwin Polivy
1061	June 4, 1962	200,000	Dutch American Mercantile A/C Ficomer
1063	June 5, 1962	100,000	Dutch American Mercantile A/C Ficomer
1064	June 6, 1962	100,000	Dutch American Mercantile A/C Ficomer
1065	June 6, 1962	40,500	Irwin Polivy
1066	June 7, 1962	27,000	Rhodes Enterprises, Inc.
1067	June 7, 1962	6,000	Rhodes Enterprises, Inc.
1068	June 7, 1962	200,000	Henry Schroder Banking Corp.

35. Attached hereto and marked Exhibit 17-Q are copies of checks written on the account of Empire Hardwood.

36. Attached hereto and marked Exhibit 18-R are copies of checks written on the account of Rhodes.

37. On the evening of June 12, 1962, petitioner flew to Brazil; during the first week of November, 1962, petitioner returned from Brazil to New York.

38. Attached hereto and marked Exhibit 19-S is check Number 2175 dated June 7, 1962 payable to Jacques Sarlie in the amount of $301,725 and drawn on the Bruce bank account at Manufacturers Hanover Trust.

39. Petitioner was a cash basis taxpayer.

40. Attached hereto and marked Exhibit 20-T are schedules showing true and accurate quotations of Bruce and Celotex for the periods stated. The Bruce shares were traded on the American Stock Exchange; Celotex was traded on the New York Stock Exchange.

41. Attached hereto and marked Exhibit 21-U are copies of bank receipts showing the transfer of Rhodes' funds to the account of petitioner.

42. Bruce claimed a loss deduction on its books and records for the fiscal year ended June 30, 1962 which included the unauthorized withdrawals of $1,9[illegible]3,000.

43. Attached hereto and marked Exhibit 22-V is a copy of petitioner's divorce agreement dated May 7, 1963.

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Tel.No.: 716-852-7587

9-21-75

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UNITED STATES TAX COURT

EDWARD M. GILBERT, Petitioner,	)	
v.	)	Docket No. 6426-72
COMMISSIONER OF INTERNAL REVENUE, Respondent.	)	

SUPPLEMENTAL STIPULATION OF FACTS

The parties hereby stipulate and agree that for the purpose of this case the following facts and exhibits attached hereto and made a part hereof may be taken as true, subject to the rights of the parties to introduce other and further evidence not inconsistent with this stipulation of preserving the parties' rights to object, at the time of trial, to any and all portions of said stipulation and attached exhibits as they may deem irrelevant or immaterial.

44. Notice of federal tax liens in the sum of $3,341,743.95 were filed on June 22, 1962 in the counties of New York, Kings, Richmond, Nassau and Suffolk with respect to the income tax liabilities of petitioner and Rhoda Gilbert with respect to the taxable years 1958, 1959, 1960 and 1962.

45. The above tax liens were filed with respect to the jeopardy assessments of income taxes made against Edward and Rhoda Gilbert for the years 1958, 1959 and 1960 in the respective amounts of $3,836.40, $1,119,164.80 and $494,986.20. Also, a joint assessment was made June 22, 1965 in the amount of $1,723,776.

46. The 1958 assessment has been paid in full.

47. Pursuant to Tax Court stipulated decision entered March 18, 1965, income tax deficiencies were determined for 1959 and 1960 in the respective amounts of $76,598.58 and $17,336.89; and also a delinquency penalty for the year 1960 was determined in the amount of $734.24.

48. The 1959 and 1960 deficiencies and penalty as determined by the Tax Court have been paid.

49. The Securities and Exchange Commission (SEC) suspending trading in Bruce stock on the morning of June 13, 1962.

50. Just prior to the SEC's suspension of trading in Bruce on June 13, 1962 stock of Bruce was changing hands in a 10 to 10-1/2 range.

51. The SEC's suspension of trading in Bruce was terminated on November 19, 1962; on that day the quoted high was 11-5/8, low 8-3/4, and the closing price was 8-3/4.

MEADE WHITAKER
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the Court in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. GILBERT: I do.

THE CLERK: For the record may we have your name and address?

MR. GILBERT: My name is Edward M. Gilbert, my address is 1133 Fifth Avenue.

THE CLERK: What city?

MR. GILBERT: New York City.

EDWARD M. GILBERT,

called as a witness, having been duly sworn in, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. RAICHLE:

Q Mr. Gilbert, you're the petitioner in this case, the taxpayer?

A Are you asking that?

Q Yes. Keep your voice up so we can hear you, please.

A All right. Is this working properly?

Q Yes. You heard my opening statement as far as I went?

A Yes, I did.

Q Well, rather than take you now to the beginning of the series of events which brings us here, I'd like to start with you as of the time that you signed some promissory notes

and an assignment, being the notes and assignment next to your petition. That was on what date?

A I believe approximately the 7th or 8th of June.

Q May it have been the 8th or are you --

A It was between the 4th and the 8th. I mean, it's quite some years ago.

Q Where did --

A In the early part of June.

Q Where did you sign the notes and the assignment?

A In the office of Sherman, Sterling and Wright.

Q And who was present when you signed them?

A Mr. West.

Q What's Mr. West's first name?

A Richard.-- Robert. Robert. Robert N. West.

Q He's a partner in the firm of Sherman and Sterling?

A That's correct.

Q And were the notes prepared by him?

A I really don't know who they were prepared by.

Q Well, they were not prepared by you?

A No. I did not prepare them.

Q Was Mr. West the firm counsel for E.L. Bruce and Company?

A Yes. They were.

Q At the time that you signed the notes?

A Yes, they were.

Q Were they in their prepared condition when they were presented to you?

A They were prepared, yes.

Q And you signed them?

A Yes, I did.

Q Now, I notice that the dates are different or diffe among the various notes and that the acknowledgement of the assignment is still a different date. Do you remember that?

A I was told that. I --

Q Well, how did that come about?

A At the time I wasn't aware of it. I learned afterwards that the notes were made to coincide with the dates of the withdrawal of the various sums of monies. All I wanted to do was pay back what I owed, and I signed whatever was put in front of me and said that's what I was using it for, to pay back what I owed. The dates of the notes apparently were dated backwards several days to coincide with the withdrawals of the various funds.

Q Well, whether it is the 7th or the 8th on which you signed the notes and the assignments, on the date of the assignment is when you signed it and delivered it to West there in his office.

A That's correct.

~~Q Now, at that time did you have a loan at the First National Bank in Chicago?~~

~~to just subpoena the Bruce Company and let's get them in~~ here and have them account for everything they've gotten and

MR. RAICHLE: They're our next witness.

THE COURT: -- and what they still owe.

MR. RAICHLE: I'm sorry. I had anticipated a much longer examination of Mr. Gilbert.

THE COURT: That's all right. I don't think the Government is just going to be satisfied with Mr. Gilbert's general statements in this regard. But I think that unquestionably I'll give you credit for everything that the Bruce Company has. Proceed.

MR. RAICHLE: I'm a little better prepared than I seem. I have Mr. --

THE COURT: I know. As I say, I just want to be sure.

MR. RAICHLE: Mr. Field will be here tomorrow and fill in all the figures. I'm just apologizing to Your Honor for not having him here now.

THE COURT: I don't like the results in this case any better than you do, Mr. Raichle, but at least if we're going to have to have that result we'd better get it down to ~~-- get all the water out of the case.~~

MR. RAICHLE: I think it would be well if we would te His Honor why a subsequent assignment was made in November whe you returned. Do you know?

A I believe you should ask Bruce but I was told, I don't know it to be a fact --

Q I think we could stipulate to say -- I know it isn't usually considered ethical to call --

THE COURT: You were asked to sign a second assignment, right?

THE WITNESS: That's correct.

THE COURT: And you said why, is that right?

THE WITNESS: Yes.

THE COURT: And what did they -- what were you --

THE WITNESS: They told me that the first assignment, something, they went to file it in the Court and somebody wouldn't accept it or something.

THE COURT: I see.

MR. RAICHLE: I can tell you what the fact is --

THE COURT: That's all right. You can't just -- and you complied?

THE WITNESS: Yes.

THE COURT: Okay. That's fine.

THE WITNESS: Yes, I signed it again when I got home from Brazil.

MR. RAICHLE: I think Mr. Kars would stipulate this fact. I was going to give the reason why it wouldn't.

THE COURT: I don't know that it makes any difference, does it? He signed two of them.

22-A

MR. RAICHLE: I think it makes this difference, that it will give Your Honor a little better feel of the case. The assignment refers to real and personal property in the same document. When Bruce came to file it they were told by the County Clerk that he couldn't accept it as a chattel mortgage and he wouldn't file it unless some very substantial filing fee was paid.

THE COURT: That's all right.

MR. RAICHLE: And Bruce didn't want to pay the filing fee and it wasn't filed.

MR. KARS: I'll stipulate to that, Your Honor.

THE COURT: All right. That's fine.

MR. RAICHLE: That accounts for the second assignment pertaining to the same property, right?

A I would believe so, yes.

~~Q I'd like to with Your Honor's permission put just~~ a skeleton direct examination on the events leading up to the withdrawals, and the notes and the assignments. I won't make it as detailed as I started out to do in my opening statement. Let me just have something in the record that identifies you. You mind my asking how old are you?

A 52.

Q And where were you born? Here in New York?

A New York City.

~~Q Where'd you go to school?~~

Q How many shares of Bruce -- I beg your pardon. How many shares of Celotex had you acquired toward the end of May for the purpose of accomplishing this merge?

A We had 56%. Between Bruce, myself and associates of mine.

Q How many shares did Bruce buy, do you know?

A Bruce bought approximately $3,600,000.00 worth.

Q Well --

A That was about 100,000 shares at $36.00 a share When I sold the shares to Ruberoid I --

Q Now wait just a second. Bruce -- the shares th Bruce bought --

A Were approximately $36.00 a share and they had approximately 100,000 shares.

Q Yes.

A Which is $3,600,000.00, approximately, was their investment.

Q And of course the minutes speak for themselves, but just to get a starting point, the purchases by Bruce were authorized by the directors.

A Yes, they were.

Q The program was undertaken with the authorizatio of the directors.

A That is correct.

Q And at the same time you were accumulating --

Q All right.

A -- that they would make money. I'm not sure. I can't --

Q Now, then, the time came when you went out to Nevada.

A That's correct.

Q That was due to some unhappy differences with your then wife?

A That's correct.

Q And where were you in Nevada?

A I first went to Las Vegas and then I went to Carson City.

Q I see. When you were out there did the time come when you received margin calls?

A Yes, it did.

Q And what date was that?

A That was on May 28th of 1962.

Q And although the documentary evidence, the stipulated quotations show it, what happened to the Celotex stock, the Bruce stock on those dates?

A Celotex went from somewheres around $32.00 a share down to $24, 5 or 6, and Bruce went from $32.00 a share down to $22.00 a share approximately. And --

THE COURT: Well, did you receive margin calls on the Bruce stock as well as the Celotex?

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THE WITNESS: Well, Your Honor, I put my Bruce stock up as collateral for the Celotex --

THE COURT: I see.

THE WITNESS: -- stock so the whole thing is --

THE COURT: In one package.

THE WITNESS: -- it was one ball of wax. I received --

MR. RAICHLE: But that wasn't part of the stock pledged to the First National, was it?

A No. I had no margin calls on that. I still had an excess of 50% on that.

Q But with other borrowings you put up your Bruce along with the Celotex which you were buying?

A Yes, that's correct. Not on every bit but all of my -- balance of my Bruce that was not at the First National City Bank but was placed in various places where I had Celotex as a margin against that. Because at one point I had no debt against Bruce when I started.

~~Q All right. Now, did you have liquid cash?~~

A Yes, but not very much. A couple hundred thousand dollars.

Q Did you have any other liquid resources from which to meet the margin calls, you personally?

A Liquid, no. No. I had nothing other than the ~~equity in my shares of stock and the small amount of cash I~~

had in the bank, comparatively speaking, at that time.

Q And did you also have in mind you had given Bruce an option on your Celotex stock?

A Yes, that's correct. I --

Q If you had -- this may or may not have been objectionable but I think it's obvious -- if you had sold your Celotex stock rather than try to meet the margin calls, would that have distorted the ability to accomplish the merger?

A Yes, quite obviously it would have. We had already agreed upon a merger with Celotex.

Q How far had it progressed?

A The Celotex people had already agreed to put three people on their board from our board and they were coming to me -- actually, they came the 12th of June, the day we had our board meeting. And they were sitting in the other room when all this transpired.

Q Did you have in mind the previous occasion we've alluded to --

MR. KARS: Objection, Your Honor. It's a leading question.

MR. RAICHLE: Well, did you have any other thoughts in mind -- oh, it isn't that important. What did you do to meet the margin call?

A I called Mr. Polivey and told him -- asked him how much money we had in the treasury and he told me we had

it in excess of $3,000,000.00 and I told him to pay up the margin calls. It's as simple as that.

~~Q And who is he?~~

A He was the treasurer or the Bruce Company.

Q Would you put his name on the record, spell his name?

A Irwin, I-r-w-i-n, P-o-l-i-v-y, Polivey.

Q We have a stipulation covering a detail of the drawing of the checks and they went to -- and I won't take you through all of that.

THE COURT: Was he a director also?

THE WITNESS: No, he was not, Your Honor. He was present at all of the director's meetings by being the ~~secretary. He had to be present. But he was not a voter.~~

MR. RAICHLE: When did you return to New York?

A About the 1st of June, if I'm not mistaken.

Q I have been asking about the 28th of May --

A I beg your pardon?

Q I asked you about the 28th of May. What day of the week was that? Do you recall?

A I think it was Monday.

Q Was what?

A Monday. I wouldn't forget that day.

Q And 29 was Tuesday?

A That's correct.

Q Then 30 was Decoration Day?

A That's correct.

Q At that time we celebrated -- if you can call it by the word celebration -- a proper one for the occasion, it was on the 30th, right?

A What was on the 30th?

Q We celebrated, say, Decoration Day on the 30th?

A I don't --

Q Well, anyway --

A It's possible.

Q Well, the market wasn't open on the 30th?

A Well, I don't remember that either. But --

Q Anyway, you got to New York when?

A I think I got to New York the day after that, Thursday or Friday. I don't remember. But that week.

Q And then that you -- this is admittedly leading. Part of it's stipulated. Did you go and tell Mr. Dillon and Mr. West about the withdrawals?

A No, I told Mr. Dillon.

Q Who is Mr. Dillon?

A He is a partner with Mr. West. Mr. West was out of town and Dillon proceeded to tell West when West came back and they called me on the phone.

Q Dillon was a partner in Sherman and Sterling which firm was at the time counsel for Bruce, right?

A That is correct, yes.

Q And -- and you've told us about Mr. West preparing the notes and the --

A That's correct.

Q -- assignments? Now, Mr. Gilbert, in requesting, indeed directing these withdrawals, causing them to be made, those that are evidenced by the checks that Mr. Polivey signed. Did you intend to steal that money?

A No, I had no intention of stealing any money. I don't think I did steal any money.

Q Did you --

A I borrowed it and paid it back.

Q Did you at all times intend to pay it back?

A Yes, I did.

Q Did you ever claim it as your own or intend to claim it as your own?

A No, that was proven by the fact that I gave it --

Q No, don't argue with me. Did you?

A No.

Q Now, after you told Mr. Dillon and Mr. West about the matter, did there come a time when Mr. Loeb was told? John Loeb?

A No, Henry Loeb was told.

Q Oh, I have the name wrong. He is one of the --

A He's the brother of John Loeb and a partner in

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the firm, yes.

Q I beg your pardon?

A He was on the board of Bruce and he was the brother of John Loeb and a partner in the firm of Loeb, Rhodes. I told him, that's correct.

THE COURT: How soon did you tell him?

THE WITNESS: I told him two days before the meeting.

THE COURT: I see.

MR. RAICHLE: When did this Ruberoid negotiation come about?

A That came about a week before the meeting. Somewheres between the 4th and the 8th of June.

Q And who participated in those?

A Mr. Loeb, a gentleman from -- a brokerage firm in New York, I'm trying to think of the name. A large brokerage firm, I can remember it later if you want to. And Mr. Weinberg was his name who was a partner in a brokerage firm who represented Ruberoid. The president of Ruberoid, a man by the name of O'Neill or O'Reilly or something like that and another man on the board of directors of Ruberoid and myself and Mr. West.

Q All right. What was the --

A We had agreed, if you're asking that question, we had agreed for 300,000 shares at $36.00 a share which was

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approximately the cost of my shares and the Bruce shares, which would be $10,000,000.00 and some odd thousand dollars, and we were told to deliver these shares to the Morgan Guarantee Bank in New York and they were going to have their meeting on the 12th and we would have ours on the 12th and they would pick up the shares and pay the $10,000,000.00 which would give me $1,600,000.00 over and above what I was holding the shares for which would have been paid back at that point to Bruce and I would have owed Bruce an additional $300,000.00 which would not have been difficult to pay. That was the deal that was made.

Q When you say it was made, it was --

A They agreed to it. They had told me that out of the five directors they had three or out of the seven they had four that had approved it already.

Q And they were going to have a meeting for the purpose of --

A Just ratifying this agreement which was made informally.

Q Did the deal go through?

A No, it did not.

Q And when were you informed that it was not going through?

A The morning of the 12th.

~~Q Now, did you -- strike that out, if you would please~~

~~Your father was a director of Bruce?~~

A Yes.

Q How many directors were there at Bruce?

~~A 14 or 13, I don't remember the exact amount.~~

Q And the night before the 12th, which would be th night of the 11th.---;

A Yes.

Q -- was there an informal meeting of some of the directors in a Mr. Creech's office?

A No, there was a meeting at the hotel in New York Present were Mr. Creech, Mr. Bruce, Mr. O'Connor, my fath and myself. Five of the directors were present.

Q At the meeting did you disclose the facts in connection with the withdrawals?

A Yes, I did. But I had already disclosed those facts to those people way prior to that.

Q To other directors?

A Oh, yes. I told Frank O'Connor on the 30th, 31st or 1st, or right away. I told Mr. Loeb, he's the treasure for the company, immediately. Mr. Polivey knew he was the secretary, he wrote the checks. I told my father, I told another gentleman. I must have told six of the directors immediately about the withdrawals and more than half of them had agreed to approve it when we went to the meeting.

Q Now, then, you've read the minutes of the meeting

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A No, I haven't, really.

Q Of June 12th?

A No, I haven't read them.

Q Okay.

A I'm sorry to say.

Q Well, you've told us there was a call from Ruberoid that they were not going to --

A That's correct. In the middle of the meeting at about 11 in the morning they called up and said they had their meeting and had rejected the proposed agreement and they offered $6.00 less. They decided they were going to offer $30.00 a share instead of $36.00. Apparently they had heard that I was in trouble and the stock had been selling down, about 24 or 25, and they figured they could chisel around a little bit.

Q Now, did you leave for Brazil that night?

A Yes, I did.

Q Why?

A Well, because of the turn of events that had taken place when I went to the meeting. I never expected the results to come out as they were. I felt that this was going to be approved, that the Ruberoid deal would go through and even if it didn't go through the board would approve it. And a Mr. Sheffield and a Mr. Cahill came to the meeting and stood up and made speeches of how --

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Q Well, you don't have to characterize their speech. Each of them talked at the meeting?

A Yes, they shook everybody up. They shook me up, too, a little bit.

THE COURT: Who did they represent?

THE WITNESS: Sheffield was a lawyer that Mr. West had chosen to represent the Bruce Company becuase he was going to resign and represent me, and Cahill was brought by Mr. Loeb, he was a director. And when I told him about it he brought his lawyer to the meeting, and these gentlemen made speeches that --

MR. RAICHLE: Well --

THE WITNESS: -- were absurd.

MR. RAICHLE: Without going into all of this detail as a result of the meeting you were in a state of excitement distress?

A I certainly was, yes.

Q And you left that night for Brazil.

A That's correct.

Q And when did you return?

A Five months later. November 1st or 2nd of 1962.

Q Yes. A secret about it. You were indicted in both the State and Federal Court?

A That's correct.

Q And you pled guilty to certain counts of each of the two indictments?

I'm advised that Mr. Kars is in error about the 90 days lette to which your --

THE COURT: Well, he couldn't have gotten to the Tax Court if we didn't have a 90 day letter.

MR. RAICHLE: Well, let's look into that.

THE COURT: It had to have -- we had to have one of them.

MR. RAICHLE: I'd like to clear up the matter of the loan at the First National Bank of Chicago. I believe Mr. Kars is ready to stipulate that the loan was collateraliz by 207,385 shares of E.L. Bruce, and -- and Company, Incorporated, and that the amount of the loan was $2,115,000.00.

MR. KARS: I'll stipulate to that, Your Honor.

THE COURT: As of what date was that?

MR. RAICHLE: Well, as of the date in question that the loan was made on May 17, 1962.

THE COURT: I see. So this loan was also made to obtain funds for this purchase probably.

MR. RAICHLE: So we have that fact established.

THE COURT: Very good.

MR. RAICHLE: Now, I'd like to call Mr. Field as a witness to the stand.

THE CLERK: You do solemnly swear that the testimony you are about to give the Court in this case will be the truth, the whole truth, and nothing but the truth so help you

of Bruce. Actually, it developed into a settlement with the Bruce Company whereby the Bruce board -- the Bruce people obtained 50% of the board and the Empire Millwork people obtained 50%. Now, we -- the old firm represented the Empire Millwork company until about 1959 at which point Empire Millwork dropped out as a client. In 1962, on Febru 1, I left that law firm. Some time later I spoke to Mr. Gilbert and he told me that Sherman and Sterling was workin on the -- for Bruce on the proposed merger with Celotex and asked me would I collaborate with them, and I, of cours accepted with great alacrity, and as I say, on February 22 I had the first meeting with Mr. West and I believe some other people from Sherman and Sterling and the then Empir Bruce people.

THE COURT: Thank you. Proceed, Mr. Raichle.

MR. RAICHLE: Yes, Your Honor. Let me say by way of explanation I was -- I was going to take the last segment first, but since this has developed in this way an I think it's a better way, I'll ask you this briefly about the director's meeting to which His Honor has referred. You were present?

A The March 5th meeting?

Q Yes.

A Yes, well, as I say, the February 22nd meeting, that was the procedural aspects of getting directors on the

board of Celotex and ultimately merging it with Bruce and I have been in touch with Sherman and Sterling on a daily basis in the connection. I believe on March 4, the day before the meeting, there was an informal meeting of the directors and I believe Mr. West was present at which --

Q When you say you believe, is it your --

A I'm -- I'm --

Q It's your best recollection?

A -- virtually positive. It was the day before the meeting. I believe -- I believe without being absolutely sure that March 5th was a Monday and -- but I'm not positive, but the previous day in the evening or the previous Sunday in any event we had a meeting at which most of the directors, the Bruce directors from Memphis, as well as some of the directors from New York, and other areas, were present and the proposed merge idea was discussed. Am I to tell what happened during the discussion?

Q Yes, go ahead, please.

A The --

Q But just stick to the Celotex.

A Sure. It was only Celotex. It was the sole subject of the discussion. The merits of the -- the alleged merits of the Celotex merge were discussed, and as I recall the prime considerations were that the two product lines of the companies were dovetailing -- I'm sorry -- were dovetailing

That the sales of the organizations could have been combined to avoid duplication and thereby create considerable savings in the distribution set up and also enlarge the -- by using the combined network, increase the sales of both Bruce products and Celotex products at a considerable saving. That was one item. The other item was that the Celotex Corporation was in a very liquid position. They had considerably more assets than was necessary for their operation which could have been utilized for their expansion. The assets of Celotex, and I recall in particular the mention of South Coast Sugar properties, were carried on the books of Celotex at the acquisition -- depreciated acquisition cost, and that the value of those properties alone, if my memory serves me, was something like $77.00 per share without reference to other assets. So that the purchases of Celotex stock at approximately 30 -- in the 30's or even in the 40's was an enormously attractive proposition. And it was, I think, the concensus of all director's present and of Mr. West, and for whatever that may count, of myself, that it really sounded like a marvelous deal. The statement was made that the Bruce stock after the merger was likely to go up in value to as much as $100.00 per share.

The following day of the meeting -- if the former meeting was on Sunday, then the following day on March 5th, otherwise it was on March 5th following the Sunday, there

was a board meeting at which general counsel at Sherman and Sterling was present. I was invited. I recall that Sherman and Sterling prepared a statement for Mr. Gilbert to read at that meeting which I reviewed with the Sherman and Sterling people. And there were all the directors with the exception if I am right of Henry Loeb who was then in India, present. And the directors -- we had sort of a formal re-hash of what was informally discussed at the informal meeting, and I believe at the informal meeting there might not have been all directors present. Most but not all. At the formal meeting, all the directors expressed great enthusiasm for the deal, and it was decided that Bruce would immediately start buying Celotex stock to the extent -- at the recommendation of Mr. Gilbert to the extent for the moment of only $400,000.00, and that both Lazard Freres and Loeb, Rhodes, who were the Bruce bankers, would -- were instructed to forthwith proceed with the preparation of a plan for the exchange of Celotex -- Bruce stock for Celotex stock. At the meeting Mr. Gilbert reported as he did in the informal meeting that he has in friendly hands approximately, as I recall, 400 roughly, maybe it was more, shares of Celotex stock --

THE COURT: 400,000?

THE WITNESS: 400,000. The total outstanding, Your Honor, was slightly over a million. I don't recall the

exact amount, but it was less, if I'm correct, than a million one. It was over a million. So that the 400,000 in sum represented close to 50% of the stock, and Mr. Gilbert said that he was going to go out and buy stock himself with his own money. That he would continue to get friends to buy it, and of course Bruce at this point was stepping in to buy directly.

~~THE COURT: How, was any statement made about~~ giving Bruce an option?

THE WITNESS: Yes, Your Honor. Mr. Gilbert said that his shares would be available to the corporation at any time the corporation asked -- Bruce asked for it at his cost.

MR. RAICHLE: All right. Now --

A And that, I think, if my memory serves me, was reflected in the statement which Sherman and Sterling prepared in our review. But it was -- it was emphatically stated of course that -- by Mr. Gilbert that all his shares -- this is a corporate opportunity and the merger was one of Bruce and that all his shares are at Bruce's disposal at his cost.

Q Did you attend a subsequent meeting or was that your last meeting before June 12th?

A No. No. I was informed of the minutes -- not of the minutes but of the contents of the meeting of April -- it was in the middle of April, either the 17th --

~~Q April 17th~~

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~~Bruce money to Brazil.~~

Q Did the time come when you had something to do with the assignment which Mr. Gilbert had given to Bruce?

A Yes. I had very much to do with it. We -- I joined Webster, Sheffield in either July or August of 1962, and I dealt -- much of my time was spent on Bruce matters and I did get the original and the copies of that assignment which was executed, if my memory serves me, on June 7th or 8th of '62.

Q All right. Now, did you have anything to do with an attempt to file it?

A No, I didn't personally have to do with attempts to file it because the firm did.

Q I don't think there's any dispute about this, but what was done?

A On June 13 or 14, Mr. Holtmeyer who was then an associate of the firm, he is now, I believe, a judge in the Family Court here, was sent down to file this June 8th or 7th assignment in the County Clerk's office, whatever the proper register was. He came back and reported that the clerk would only file the assignment if Bruce paid an amount somewhere between 10 and 15 thousand dollars for mortgage recording tax. The reason for that was that the assignment had in a single document an assignment of all of Mr. Gilbert's personal property and also referred to some real

property on East 70th Street. I think it's called the Cl
House. And the statute, I think, calls for a mortgage
recording tax with respect to real property. The informa-
tion which the firm had as of that time, and I believe it
was correct, was that Mr. Gilbert did not have any equity
the Clark House, and that therefore the mortgage tax was
completely wasted money. Mr. Holtmeyer, therefore, aske
the clerk to file the assignment solely in the register o
personal property which would give us no protection -- w
would give Bruce no protection whatsoever, with respect t
the real property involved. We believed that as a matter
law was our right. The clerk, however, took a different
position, and said no, we won't file it even with the per-
sonal property register unless you pay us the 10 or 15
thousand dollars. And we thought it was wrong and within
a few days later, I believe within the week, the Governme
has done something which none of us anticipated, and that
is file the jeopardy assessment and file liens in virtuall
every place where Mr. Gilbert might have any conceivable
interest. I think I have a list with me of the places in
which the Government filed it. And thereafter -- immediat
thereafter, they took the position that they have -- they
take precedence --

~~Q They being --~~

~~A The Government. We discussed it was the Governme~~

THE WITNESS: We can -- we can, of course, furnish it, but I know what the agreement provided.

MR. KARS: Right. I think we could stipulate or I'd agreement to what the Government -- what the settlement provided.

THE WITNESS: Surely. If it helps in the discussions here I can tell you what the substance was --

THE COURT: Well, suppose you do that.

THE WITNESS: -- very briefly. The agreement provided --

MR. RAICHLE: First, when was the agreement reached?

A 1970. I think that the agreement was approved, signed in 1970 even though it's dated August '63, it took years and years to hammer out that agreement. It was ultimately approved in 1970 around July, Your Honor, if my memory serves me, or August and the closing -- there was a whole series of agreements that was then completed and we started getting the first assets. But the substance of the agreement was as follows: The Government has, if you will, beaten us to certain assets quite clearly. A striking example of that was a piece of property that Mr. Gilbert owned in Bucks County, Pennsylvania. The Government filed the lien there, I believe, on -- again, within a week after Mr. Gilbert left for Brazil. And since this was real property

in Pennsylvania, the Government's filing of the lien has deprived -- deprived us of any chance unless Mr. Gilbert's tax liability was ultimately to be decided adversely to the Government of any chance of getting that property, and the Government got 100% of these assets.

Now, the agreement divided the assets into three categories. Some very trifling assets which Bruce had in its possession, on April -- on June 12th, 1962 that was Schedule A assets.

The Schedule B assets were those which the Government took possession of in various bank accounts and again the real property in Pennsylvania and others, these were the Schedule B assets. And these went 100% to the Government.

Then all the remaining assets were scheduled -- were defined as Schedule C assets. And the Schedule C assets, which were in part only reflected on Schedule C but applied to virtually all other assets, the Government was getting 35% and Bruce 65%, subject, however, to the stipulation that in the event that it is determined that ultimately -- that Mr. Gilbert does not owe any tax for 1962 or to the extent that it is determined that the tax is relatively small, any amount which the Government collected pursuant to this agreement which were in excess of what Mr. Gilbert owed for 1959 and '60, were going to be returned to the Bruce Company.

THE WITNESS: Your Honor, I wish to stress it was stated to me, I think the gentleman who worked on this particularly was the U.S. -- Assistant U.S. Attorneys -- the case outlived about 6 or 7 U.S. Attorneys, and I think that this particular agreement was made during the reign of Mr. Katsky. And Mr. Katsky was emphatic in telling me that this may not be a complete list of collections but it was sort of -- this he knew of, so we listed this, and it was understood that it was not the complete list and if the Government checked its files it may have made additional seizures and reduced to possession additional assets of both Eddie Gilbert and his wife Rhoda. And I believe the '59 and '60 returns were joint returns.

THE COURT: Now, what happened to the -- what happened to the Bruce stock that First National Bank of Chicago had?

THE WITNESS: Your Honor, we had hardly any opportunity to do anything about it. Let me -- let me say this, Your Honor, because I think if I didn't say it already we were completely stymied by this lien because we did not know that the efforts and the legal fees -- if we sold the Bruce stock the Government would have claimed the money. If somebody else bought it --

THE COURT: Well, wasn't that -- didn't -- wasn't there substantial equity in that?

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THE WITNESS: There was substantial equity, certainly, at the time of the assignment.

THE COURT: All right.

THE WITNESS: But as I understand it, at the time of the assignment the matter was academic because they were supposed to get paid out of the Ruberoid transaction The entire amount would have been paid. So the issue did not arise at all until the evening of June 12th or June 1. which was after Mr. Gilbert left for Brazil. And I -- I ~~don't know, as I say, I came in late July or early August,~~ and that would be speculation. I don't want to speculate But I think what happened was that the bank -- Mr. Pritske and the Pritsker family was one of the customers of the First National of Chicago and a private sale was arranged there. We apparently did not -- did not fight it. They -- and they assumed control of the company, ultimately sold the stock at a very substantial profit to Cook -- Cook Industries.

THE COURT: But you don't know how much they pai for the stock?

THE WITNESS: I have no recollection --

THE COURT: I see.

THE WITNESS: -- right now. It was not --

THE COURT: Well, did the bank account to you ~~people at all for that or did they~~

MR. RAICHLE: That's what the testimony is offered for, Your Honor. Will you -- should he continue?

THE COURT: Continue.

THE WITNESS: Now, Your Honor, to give the -- I understood Mr. Raichle wanted me to tell the Court what the collections were and beginning with the settlement with the Government in 1970, Your Honor, the total collection which we received for the joint account of the United States in Bruce were $390,145.50, and then one additional $163.45, but I see there's a question marked through it which I cannot really explain, but in view of the trifling nature of the item, I will -- I will disregard it. Of that amount we disbursed -- we, Webster - Sheffield, we disbursed to the Government $135.00, 179.96 as its 35 share, and the balance I believe is $254,865.54 to Bruce. The total was $391,045.50. Now, in addition to this, Your Honor, perhaps by way of explanation, these payments -- these -- these deposits and disbursements represent the proceeds of some of the paintings and some of the stamps that were assigned. This is exclusively from this one source. In addition to this 390,145.50, there were four paintings which were given to Wildenstein for sale at the time that we settled in 1970. The four paintings were part of a larger number of paintings that were given to Wildenstein for sale. And the proceeds of 390 represents to the extent that they relate to paintings,

drawing by "Yves Brair" for which we have gotten estimates of -- ranging anywhere between 15 and 25 thousand dollars. We still have these. We did collect, in addition to what we collected from -- after the settlement, which is the bulk of everything that we got, we collected independently within the assets which are considered 100% owned by Bruce under the agreement with the Government, which are rather trifling in nature, I have a schedule of these here too, if I may take a moment to find it. We recovered $2,865.00 from the proceeds of the sale of a French villa which Mr. Gilbert owned in Cap Martin in France, and which I understand was sold early in the game to the mortgagee for the amount of the mortgage. After the expenses all that was left for Bruce was $2,865.00.

MR. RAICHLE: When you say early in the game, you mean it was after the assignment?

A Assignment, but soon after the assignment.

Q When it was settled, who did the selling?

A Some French -- the French mortgagee, I believe, sold it.

THE COURT: Now, as far as Bruce was concerned, on June 13th they had an assignment and except for the intervention of the Government they were entitled to take all of those assets, is that right?

THE WITNESS: That is correct, Your Honor. Subject

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~~THE COURT: But you don't think that's -- that's not the real world?~~

THE WITNESS: That may not be the real world, Your Honor. Speaking, Your Honor, about what the real world -- we had just recently -- it was one painting that Wildenstein took over which was a Monet, an extremely valuable painting on which the minimum price set by Wildenstein was $175,000.00. And somewhere before the time at which Wildenstein was supposed to sell these paintings for us as agent, Mr. Gilbert advised us that someone he knows is willing to offer anywhere between $350,000.00 and $400,000.00 for that particular painting. That he had seen a transparency of it, that he would like to see the painting itself before he makes the commitment. And the fly in the ointment was that the prospective buyer wanted to view this painting not on the premises of Wildenstein because another gallery was involved. He pleaded with me to get this painting out of the possession of Wildenstein --these were our paintings -- for about half an hour sc that the prospective buyer could view them. I called Mr. Goldenberg, Louie Goldenberg, who is the president of Wildenstein, and told him that we have allegedly on the horizon a buyer who would pay 350 to 400 thousand instead of 175 thousand for the painting and that I would like and pay for the transportation of this painting to anyplace, including our office, which is only a few blocks

away from the warehouse where the painting is stored, so the prospective buyer can view it. Mr. Wildenstein -- I can't characterize it in any other way than -- Mr. Goldenberg exploded, it was absolutely out of the question. You will never do it, we had no right. And I said to him, Mr. Goldenbert, it is obviously -- and I call him Lou -- it is obviously to your advantage since you are on a commission basis to get the commission on 350 or 400 hundred thousand dollars rather than $175,000.00. And Mr. Goldenberg said to me, look, this is the most valuable painting I have he- and if I give this away, what am I left with if you leave me with the "put". And that created considerable upset in our office. We had a meeting and we called the meeting wi the Assistant U.S. Attorney and urged him that we jointly prohibit Wildenstein from selling this painting for $175,00 The Assistant U.S. Attorney took the position that they don't want to do it --

Q What's his name?

A I think it was Mr. Landon. I think we had lunc with him. We also had -- downtown here near Mr. Lynch's office. Mr. Lynch is the attorney for Wildenstein, and we jointly proceeded to Mr. Lynch's office and expressed -- Mr. "Manly" Fleishman of -- my partner and I -- our indig tion over Mr. Goldenberg's conduct and it was inexplicable. I'm -- I'm reasonably certain that Mr. Landon said what

others said before him, that the Government is not out to get the last ounce -- last dollar out of the sales and let's not disturb it and let Wildenstein sell it and they did not join us in -- and we could not do it under the agreement without the United States, we could not stop the sale. The painting was ultimately sold by Wildenstein for $185,000.00. We got -- we demanded, since we were very suspicious of that sale, we demanded the sale documents. There was some to do about it and ultimately we got an invoice which I think post dated the Wildenstein check to us for the $185,000.00. We ultimately decided -- the client decided not to sue. I think we recommended that they sue, but told them there was going to be substantial expense and discovered that the painting was sold in Switzerland. We had no knowledge that it was in Switzerland. There was no -- no telling to us that this and other paintings were shipped to Europe. It was done without our knowledge and that was the story of this one painting.

Now, there were also, Your Honor, three paintings which do not fit -- which I didn't mention. They were probably the most valuable paintings of all. There was a Fragonard, for which Mr. Gilbert paid $95,000.00 and there were two Boucher paintings which together he paid $495,000.00 for the three paintings. $190,000.00 in 1959. As of the time we had the lawsuit, Wildenstein took the position that

these three paintings were on consignment to Mr. Gilbert, and he took that position even though the paintings had already been at Mr. Gilbert's for two years. And we said, well, it was obviously following the pattern of the prior sale of other paintings by Wildenstein and that Wildenstein was simply a creditor with respect to these paintings. The paintings belonged to Mr. Gilbert.

Ultimately, when it got to the settlement the United States urged us to settle and we did so because unless we settled we wouldn't have gotten any monies for God knows how many years. That was done in 1970. We settled it and we gave to Wildenstein these three paintings which at the time of the settlement, I believe Mr. Goldenberg himself, said had a value of about $400,000.00. If we had been on our own without the Government in the picture, we would never have settled that case. We think we would have recovered.

~~Q But they were paintings --~~

A They were three --

Q -- that were comprehended by the assignment?

A Definitely. They are listed in the assignment as a Fragonard and two Bouchers, and everything was comprehended by the assignment. I think the assignment says that he assigns all his property of whatsoever nature.

THE COURT: Well, I don't know that this affects ~~the issue before us here although I assume that at some~~

53-A AE

300 Dkt. No. 6426-62

Form 1040 — U.S. INDIVIDUAL INCOME TAX RETURN—1962

Department of the Treasury — Internal Revenue Service

RECEIVED OCT 15 1963

For the calendar year 1962 or fiscal year beginning ..... 1962, ending ..... 19.....

Your Social Security Number: 077 18 1944

Occupation: EXECUTIVE

Wife's Social Security Number:

Occupation:

Print or Type

First name and initial: EDWARD M. Last name: GILBERT

(If joint return of husband and wife, use first names and middle initials of both)

Home address: CURRENT HOTEL ADDRESS 212 PARK AVE. (Number and street or rural route)

NEW YORK (City, town, or post office) NY (State) (Postal zone number)

Check one: ☐ Single; ☐ Unmarried "Head of Household"; ☐ Surviving widow or widower with dependent child; ☐ Married filing joint return (even if only one had income); ☑ Married filing separate return—If wife or husband also filing separately, give name. RHODA GILBERT

INCOME—(If joint return include all income of both husband and wife)

	(a) Wages, etc.	(b) Federal income tax withheld
1. Wages, salaries, tips, etc., and excess of allowances over business expenses. Employer's name / Where employed (city and state): E. L. BRUCE CO. (INCORPORATED)	$ 65000.00	$ -0-
If either you or your wife worked for more than one employer, see page 4 of instructions		
2. Totals	65000.00	-0-
3. "Sick pay" if included in line 1 (attach required statement)		
4. Subtract line 3 from total wages		65000.00
5a. Dividends (Schedule B)		7765.23
b. Interest (Schedule B or other list)		11221.39
c. Rents, royalties, pensions, etc. (Schedule B)		5000.00
6. Business income (Schedule C)		
7. Sale or exchange of property (Schedule D) . L.T. 35		(1000.00)
8. Farm income (Schedule F)		
9. T… TRANSFERRED		87770.62

Assessment Dist. BROOKLYN FROM FORM 2644
Tax $ 1,723,776.00
Pen. $
$
Int. $
Total $ 1,723,776.00
IR Code Section 6851
Initials MN
Assessm't Date 6-22-62
Account No. 62 D 149564

BY USING EITHER 10 OR 11

11. Tax Rate Schedule

a. If you itemize deductions, enter total from page 2. If line 9 is $5,000 or more and you do not itemize, enter 10% of line 9 but not more than $1,000 ($500 if married and filing separate return).	39504.99	
b. Subtract line 11a from line 9	(30705.91)	
c. Copy total exemptions from page 2 here 3, multiply by $600	1800.00	
d. Subtract line 11c from line 11b. Figure your tax on this amount by using tax rate schedule on page 9 of instructions and enter tax on line 12.	30585.91	
12. T… schedule)	NONE	
13. S… F-1)	NONE	
14. T…		

PAYMENTS AND CREDITS

15a. Tax withheld (line 2, col. (b) above). Attach Forms W-2		
b. Payments and credits on 1962 Declaration of Estimated Tax	None	
c. Dividends received credit		
d. Retirement income credit		
e. Investment credit (Form 3468)		
f. Other credits (Specify—see page 5 of instructions)		None
g. Total (add lines a, b, c, d, e, and f)		None
District Director's office where amount on line 15b was paid		

TAX DUE OR REFUND

16. If payments and credits (line 15g) are less than tax (line 14), enter Balance Due here. Pay in full with this return to "Internal Revenue Service." File with your District Director.	NONE
17. If payments and credits (line 15g) are larger than tax (line 14), enter Overpayment here	
18. Amount of line 17 you wish credited to 1963 Estimated Tax	
19. Subtract line 18 from line 17. Apply this balance to: ☐ U.S. Savings Bonds; or ☐ Refund	

★ List your exemptions and sign on other side

EX. 1-A

• Attach Copy B of Forms W-2 Here •

• Attach Check or Money Order Here •

FORM 1040—1962

SCHEDULE A.—EXEMPTIONS (See page 6 of Instructions)

1. Exemptions for yourself—and wife (only if all her income is included in this return, or she had no income)

Check boxes which apply.

(a) Regular $600 exemption . . . . . ☑ Yourself ☐ Wife

(b) Additional $600 exemption if 65 or over at end of 1962 . . . . . ☐ Yourself ☐ Wife

(c) Additional $600 exemption if blind at end of 1962 . . . . . ☐ Yourself ☐ Wife

Enter number of boxes checked → 1

2. Exemptions for your children and other dependents (list below)

• If an exemption is based on a multiple-support agreement of a group of persons, attach the declarations described on page 6 of instructions.

NAME Enter figure 1 in the last column to right for each name listed (Give address if different from yours)	Relationship	ANSWER ONLY FOR DEPENDENTS OTHER THAN YOUR CHILDREN: Months lived in your home. If born or died during year also write "B" or "D"	Did dependent have income of $600 or more?	Amount YOU furnished for dependent's support. If 100% write "ALL"	Amount furnished by OTHERS including dependent	
ROBIN						
ALEXANDRA				$	$	→ 1
						→ 1
						→
						→
						→
						→
						→

3. Total exemptions (lines 1 and 2 above). (Enter here and on line 10 or 11c, page 1) . . . . . → 3

ITEMIZED DEDUCTIONS—If you do not use tax table or standard deduction

If husband and wife (not legally separated) file separate returns and one itemizes deductions, the other must also itemize

If necessary, write more than one item on a line or attach additional sheets. Put name, address and Social Security number on all attachments

Contributions (If other than money, submit description of property, including cost or other basis, date of acquisition and method of valuation)

SCHEDULE 750.00

Total paid (not to exceed 20% of line 9, page 1, except as described on page 7 of instructions) → $ 750 —

Interest expense

SCHEDULE

Total interest → 3832 50

Taxes

Real estate taxes 1077.23 — State income taxes

State and local sales taxes 750.00 — Other taxes (specify)

TRANSFER TAXES 21.82

Total taxes → 1971 13

Medical and dental expense (Submit itemized list. Do not enter any expense compensated by insurance or otherwise)

NOTE: If you or your wife are 65 or over, or if either has a dependent parent 65 or over, see page 8 of Instructions for possible larger deduction.

1. Total cost of medicine and drugs	$	
2. Enter 1% of line 9, page 1		
3. Subtract line 2 from line 1		
4. Other medical, dental expenses (Include hospital insurance premiums)		
5. Total (add lines 3 and 4)		
6. Enter 3% of line 9, page 1 (see note above)	$	
7. Subtract line 6 from line 5; see page 8 of instructions for maximum limitation		

Other deductions (See page 8 of instructions)

SCHEDULE

Total → 7558 04

Total deductions (Enter here and on line 11a, page 1) . . . . . → $ 39504 9 —

EXPENSE ACCOUNT INFORMATION

Did you receive an expense allowance or reimbursement, or charge expenses to your employer? ☑ Yes ☐ No

If "Yes," did you submit itemized accounting of all such expenses to your employer? ☑ Yes ☐ No

See page 6 Instructions

Did you file a return last year? ☑ Yes ☐ No. If name or address on last year's returns was different from this year, enter name and address used last year.

I declare under penalties of perjury that I have examined this return (including accompanying schedules and statements) and to the best of my knowledge and belief it is true, correct, and complete. Declaration prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Sign here . . . (Taxpayer's signature and date) 10/15/63

(If joint return, BOTH HUSBAND AND WIFE MUST SIGN)

Sign here . . . (Wife's signature and date)

55-A

COPY

E. L. Bruce Co. (Incorporated)
660 Madison Ave.
New York 21, N.Y. 13-1929626

Type or print EMPLOYER'S identification number, name, and address above.

WITHHOLDING TAX STATEMENT 1962

Federal taxes withheld from wages

Copy B—To be filed with employee's tax return

SOCIAL SECURITY INFORMATION		INCOME TAX INFORMATION		
$4,800.00 Total F.I.C.A. wages paid in 1962	$ 144.00 F.I.C.A. employee tax withheld, if any	$ 65,000.00 Total wages* paid in 1962	$ -0- Federal income tax withheld, if any	

Edward M. Gilbert
817 Fifth Ave.
New York 21, N. Y.

079-18-1994

Type or print EMPLOYEE'S social security account no., name, and address above.

EMPLOYEE: This is not a tax return but you must file it with Form 1040A, or Form 1040. See instructions on other side and on back of copy C.

If you expect to owe more income tax for next year than will be withheld if you claim every exemption to which you are entitled, you may increase the withholding by claiming a smaller number of exemptions or you may enter into an agreement with your employer to have additional amounts withheld. See Form W-4.

FOR USE OF INTERNAL REVENUE SERVICE
Employee's copy and employer's copy compared . . . . .

FORM W-2—U.S. Treasury Department, Internal Revenue Service

*Before payroll deductions of "sick pay" exclusion.

56-A

J. B. KASS & CO.
CERTIFIED PUBLIC ACCOUNTANTS
201 PARK AVENUE SOUTH
NEW YORK 3, N.Y.
ORegon 4-8900

October 15, 1963

Director of Internal Revenue
210 Livingston St.
Brooklyn, N. Y.

Re: Edward M. Gilbert
1962 Federal income tax return

Gentlemen:

We are herewith delivering by hand the 1962 Federal income tax return of Mr. Edward M. Gilbert.

Please acknowledge receipt thereof by signing on the bottom of this letter where indicated.

Very truly yours,

J. B. KASS & CO.

By: Jacob Kantor
Jacob Kantor

JK:DS
Enc.

RECEIVED:

Herbert Madison,
Internal Revenue Agent
for Director of Internal
Revenue, New York

Date: 10/15/63
at 5 PM

57-A

U. S. TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
210 LIVINGSTON STREET
BROOKLYN 1, NEW YORK

September 11, 1963 nc

IN REPLY REFER TO
2R15
C:SR:C E

A 00753

Edward M. Gilbert
% J. B. Kass & Co.
201 Park Avenue South
New York 3, New York

Form: 1040
Taxable Period: 1962
Final Extension Granted To: 10/15/63

Your request for a further extension of time to file your Income Tax Return is granted for such period as may be necessary, but not later than the date shown above.

Interest is charged on balance of tax due at the rate of 6% per annum from the original due date of the return to date of payment.

This letter and the original letter of extension should be attached to the completed return and filed with this office.

Very truly yours,

Thomas E. Scanlon

Thomas E. Scanlon
District Director

2 R 15 (12-58.

EDWARD M. GILBERT
RIDER TO 1962 FEDERAL INCOME TAX RETURN

In addition to data shown on the accompanying return there might be additional transactions to be reported with respect to transactions in the stock of E. L. Bruce Co., Inc. and Celotex Corp. entered into with a co-venturer.

All records concerning these transactions were kept abroad and I have tried to secure these records for some time. The records are presently in Switzerland. I have been informed that these records will be forwarded to me within the next few weeks.

If upon the receipt of these records it appears that additional transactions should be reflected on this return, a supplemental schedule reporting them will be forwarded forthwith.

EDWARD M. GILBERT

RIDER TO 1962 FEDERAL INCOME TAX RETURN

Prior to June 12, 1962 Edward Gilbert (hereinafter the taxpayer) was the president, a principal stockholder and a director of E. L. Bruce Company (Bruce). During the latter part of May and the early part of June, 1962, the taxpayer caused certain sums to be withdrawn from Bruce. These withdrawals were, at the direction of the taxpayer, made in the form of checks issued by Bruce to the order of the following persons and corporations in the following amounts:

Date	Payee	Amount	
5/29	Empire Hardwood Flooring Corp.	$ 200,000	
5/31	" " " "	205,000	
	Total	$ 405,000	(1)
6/6	Less: Return to Bruce	5,000	(2)
	Net	$ 400,000	
5/29	Rhodes Enterprises, Inc.	$ 50,000	
5/31	" "	340,000	
6/1	" "	126,000	
6/4	" "	490,000	
6/5	" "	100,000	
6/6	" "	160,000	
6/7	" "	287,000	
	Total	$1,553,000	
	Total Withdrawals	$1,953,000	

Disposition of Withdrawals by Empire Hardwood:

5/29	Jerome International Corp.	$ 55,000	
5/29	Rhodes Enterprises, Inc.	145,000	
5/31	" "	200,000	
5/29	E. L. Bruce Co. (Inc.)	5,000	(2)
	Total Disbursements	$ 405,000	(1)

The total amount of these withdrawals was $1,953,000. Promissory demand notes for the full amount bearing interest at 6% per annum were given by the taxpayer to Bruce. These notes are dated May 28, 29, June 1, 4 and 5, 1962. Taxpayer also executed an assignment dated May 28, 1962 and acknowledged on June 8, 1962. A copy of this assignment is attached hereto and labeled Exhibit "A". The assignment was of all of the property owned by the taxpayer, the fair market value of which at the time of the assignment exceeded $1,953,000. On June 12, 1962, the taxpayer resigned as president of Bruce and left for Brazil where he stayed until November 5, 1962. On November 5, 1962, the taxpayer executed an additional assignment of all of his personal property to Bruce. A copy of this assignment is labeled Exhibit "B" and attached hereto.

The taxpayer has pleaded not guilty to a larceny indictment involving these withdrawals.

No part of the $1,953,000 withdrawals has been reported by the taxpayer as taxable income on the advice of counsel that no part of such sums were income to him for the year 1962. During the taxable year in which the withdrawals were made the taxpayer acknowledged his debt to Bruce and gave Bruce notes in the full amount of the withdrawals secured by an assignment of personal property, the fair market value of which exceeded the amount of the withdrawals. Whether the transactions are to be considered as

loans or as unauthorized withdrawals, the acknowledgement of the debt coupled with the assignment negates the finding of any taxable income to the taxpayer.

62-A

JUN 25 '62 AU:R:Sec.6851

Mr. Edward Gilbert and
Mrs. Rhoda Gilbert
817 5th Avenue
New York, New York

Dear Mr. & Mrs. Gilbert:

You are hereby notified that I, the undersigned District Director of Internal Revenue find that you have designed to conceal your property in order to hinder and prevent collection of income taxes justly due and to become due for the period January 1,1962 to June 15,1962.

In accordance with Section 6851 of the Internal Revenue Code and Regulations thereunder, you therefore are notified that pursuant to authority granted to me I hereby declare the taxable year begun January 1,1962 and ended June 15,1962, immediately terminated and the income taxes to become due from you for such taxable period immediately due and payable.

You are further notified that an assessment has been made against you for the income taxes due from you for such taxable period in the following amount:

Taxable Year	Tax
January 1,1962 to June 15,1962	$1,723,776.00

and that the aforesaid amount of income tax is hereby declared immediately due and payable by you.

You are requested, therefore, upon presentation of this notice to you together with such other or further statement of income taxes as may be presented to immediately pay the full amount of the aforesaid income taxes.

Very truly yours,

District Director

BEST COPY AVAILABLE

EDWARD & ANNA KUNKEL

POTENTIAL TAX DEFICIENCY

PARTIAL YEAR '16 (JANUARY 1 TO JUNE 15)

INCOME						[illegible]
LESS: STANDARD DEDUCTION						[illegible]
LESS: EXEMPTIONS						[illegible]
TAXABLE NET INCOME						17[illegible]
TAX		[illegible]		3[illegible]		
		[illegible]	@ 91 To	[illegible]	[illegible]	
DEFICIENCY						[illegible]

SCHEDULE D (Form 1040)

U.S. Treasury Department - Internal Revenue Service

GAINS AND LOSSES FROM SALES OR EXCHANGES OF PROPERTY

Attach this schedule to your income tax return. Form 1040

1962

64-A

Name and address as shown on page 1 of Form 1040

EDWARD J. [illegible] - Future Trading

Your Social Security Number: 071 18 1114

Part I—CAPITAL ASSETS

Short-term capital gains and losses—assets held not more than 6 months

a. Kind of property (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price (contract price)	e. Depreciation allowed (or allowable) since acquisition or March 1, 1913 (attach schedule)	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
1. SCHEDULE 1 Loss						(1,132,000.00)
" 3 Loss						(111,434.00)
" 4						148,084.00
PROFIT ON CONFERM SALES						12,000.00
2. Enter your share of net short-term gain (or loss) from partnerships and fiduciaries						
3. Enter unused capital loss carryover from 5 preceding taxable years (Attach statement)						
4. Net short-term gain (or loss) from lines 1, 2, and 3						(1,033,141.00)

Long-term capital gains and losses—assets held more than 6 months

5. SCHEDULE 1 Loss						(116,133.00)
" 2						7,145,713.00
" 4 Loss						(810.50)
Total long-term gross sales price						
6. Enter the full amount of your share of net long-term gain (or loss) from partnerships and fiduciaries						
7. Capital gain dividends						(16145.00)
8. Net long-term gain (or loss) from lines 5, 6, and 7						
9. Combine the amounts shown on lines 4 and 8, and enter the net gain (or loss) here Loss						(1,202,713.00)
10a. If line 9 shows a GAIN—Enter 50% of line 8 or 50% of line 9, whichever is smaller. (Enter zero if there is a loss or no entry on line 8.) (See reverse side for computation of alternative tax)						
b. Subtract line 10a from line 9						
11. If line 9 shows a LOSS—Enter here the smallest of the following: (a) the amount on line 9; (b) taxable income computed without regard to capital gains and losses and the deduction for exemptions; or (c) $1,000						1,000.00

Part II—PROPERTY OTHER THAN CAPITAL ASSETS

a. Kind of property (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price (contract price)	e. Depreciation allowed (or allowable) since acquisition or March 1, 1913 (attach schedule)	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
12.						
13. Enter your share of non-capital gain (or loss) from partnerships and fiduciaries						
14. Net gain (or loss) from lines 12 and 13						

Part III—TOTAL GAINS OR LOSSES FROM SALE OR EXCHANGE OF PROPERTY

15. Net gain (or loss) from either line 10b or 11	
16. Net gain (or loss) from line 14	
17. Total net gain (or loss), combine lines 15 and 16. Enter here and on line 7, page 1 of Form 1040	

COMPUTATION OF ALTERNATIVE TAX

It will usually be to your advantage to use the alternative tax if the net long-term capital gain exceeds the net short-term capital loss, or if there is a net long-term capital gain only, and you are filing (a) a separate return with taxable income exceeding $18,000, or (b) a joint return, or as a surviving husband or wife, with taxable income exceeding $36,000, or (c) as a head of household with taxable income exceeding $24,000.

1. Enter the amount from line 11d, page 1 of Form 1040	
2. Enter amount from line 10a on reverse side	
3. Subtract line 2 from line 1	
4. Enter tax on amount on line 3 (use applicable tax rate schedule on page 9 of Form 1040 Instructions)	
5. Enter 50% of line 2	
6. Alternative tax (add lines 4 and 5). If smaller than the tax figured on the amount on line 11d, page 1 of Form	

From sales and exchanges of property

NAME [illegible] M. Gilbert

ADDRESS

Taxable Year Ended 1962

NO. SHARES OR BONDS	1 PROPERTY DESCRIPTION	2 DATE ACQ.	2 DATE SOLD	3 GROSS SALES PRICE (Contract Price)	4 DEPRECN. ALLOWABLE	5 COST OR OTHER BASIS	6 EXPENSE OF SALE ETC.	7. GAIN (OR LOSS) LONG TERM	7. GAIN (OR LOSS) SHORT TERM
[illegible]	[illegible] Co. DEBENTURE	1/5/62	11/26/62	900 000 --		1 500 000 --		(900 000 -)	
[illegible]	" " "	[illegible]/5/62	1/--/63	765 [illegible] 25		1 254 [illegible] --			(489 716 3
11 000	[illegible] Co.	3/9/[illegible]	4/--/62	11 [illegible] --		3[illegible] 25			(119 0[illegible] 5
[illegible]	" "	[illegible]	12/--/62	2[illegible] --		[illegible] --		(203 150 -)	
3 [illegible]	" "	[illegible]	3/--/63	9[illegible] 25		1[illegible] --			(1[illegible] 437 4
	" " [illegible]		3/--/63	--		[illegible] 16			([illegible] 4 7
1 000	[illegible] Power Corp.	[illegible]	[illegible]	2[illegible] 90		12 50 --			737 9
100	[illegible] & Poors	" "	"	3[illegible] 10		2[illegible] --			7[illegible] 1
[illegible]	[illegible] RECORD	[illegible]	[illegible]	1[illegible] [illegible]		49[illegible]			31[illegible]
	VENDRILL [illegible] (WORTHLESS)	1/--/62	--	--		6[illegible] --		(60 000 -)	
TOTAL SHORT TERM GAIN (OR LOSS)									(1,132,000 0
TOTAL LONG TERM GAIN (OR LOSS)								(1,163,150 00)	
TOTAL NET CAPITAL GAIN (OR LOSS)								$	(2,295,150.0

CYPRESS NO. 3

65-A

SCHEDULE D

From sales and exchanges of property

NAME Edward M. Graham

ADDRESS

Taxable Year Ended 196

NO. SHARES OR BONDS	1 PROPERTY DESCRIPTION	2 DATE ACQ.	2 DATE SOLD	3 GROSS SALES PRICE (Contract Price)	4 DEPRECN. ALLOWABLE	5 COST OR OTHER BASIS	6 EXPENSE OF SALE ETC.	7. GAIN (OR LOSS) LONG TERM	7. GAIN (OR LOSS) SHORT T
4400	E. L. Bruce Co.	1957	1/31/6v	44000		70[illegible]90		43291 10	
1942	"	"	2/6/6v	[illegible]8349 77		3[illegible]v 58		[illegible]3586 87	
100	"	"	2/[illegible]/6v	3[illegible]v1 80		16 11		3[illegible]05 67	
1[illegible]00	"	"	2/[illegible]/6v	10[illegible]20		161 11		1033[illegible] 87	
2[illegible]00	"	"	2/[illegible]/6v	26[illegible]00		6[illegible]2 27		2[illegible]47 21	
1[illegible]5	"	"	5/ /6v	371[illegible] 60		15 1[illegible]00		36[illegible] 76	
1[illegible]7	"	"	5/7/6v	33[illegible] -		144v 60		3310[illegible] 40	
2[illegible]00	"	12/[illegible]/5[illegible]	[illegible]/[illegible]/6v	21[illegible]4 86		18[illegible]770 67		27[illegible]1[illegible] 61	
4[illegible]00	"	1957-1/61	11/6/6v	[illegible]33[illegible] -		[illegible]90 [illegible]00 76		[illegible]43[illegible] 11	
[illegible]2[illegible]	"	7/[illegible]/6[illegible]	[illegible]/[illegible]/[illegible]	[illegible]4[illegible]2 72		1[illegible]2193 38		7[illegible] 14	
[illegible]4[illegible]	"	7/[illegible] 1/6[illegible]	2/[illegible]-4v	25[illegible]00 91		[illegible]433[illegible]7 64		40[illegible]1 33	
3[illegible]00	"	5/11-1/6v	11/[illegible]/6[illegible]	33[illegible]1 [illegible]		10[illegible] [illegible]		(110v 40)	
TOTAL SHORT TERM GAIN (OR LOSS)									
TOTAL LONG TERM GAIN (OR LOSS)								9945[illegible] 22	
TOTAL NET CAPITAL GAIN (OR LOSS)								$	

CYPRESS 1

66A

From sales and exchanges of property

NAME EDWARD M GILBERT

ADDRESS

Taxable Year Ended 12/31/

NO. SHARES OR BONDS	1 PROPERTY DESCRIPTION	2 DATE ACQ.	2 DATE SOLD	3 GROSS SALES PRICE (Contract Price)	4 DEPRECN. ALLOWABLE	5 COST OR OTHER BASIS	6 EXPENSE OF SALE ETC.	7. GAIN (OR LOSS) LONG TERM	7. GAIN (OR LOSS) SHORT TE
	BRUCE (Account 52)								(11C793
	BRUCE (Account 55)								(4218
	BRUCE (Account 56)								7020
	BRUCE (Account 57)								(9875
	CELOTEX (Account 58)								28232

(1) (4)

SCHEDULE OF GAINS & LOSSES
From sales and exchanges of prop y

NAME EDWARD M GILFILLAN

Taxable Year Ended 19

ADDRESS

NO. SHARES OR BONDS	1 PROPERTY DESCRIPTION	2 DATE ACQ.	2 DATE SOLD	3 GROSS SALES PRICE (Contract Price)	4 DEPRECN. ALLOWABLE	5 COST OR OTHER BASIS	6 EXPENSE OF SALE ETC.	7. GAIN (OR LOSS) LONG TERM	7. GAIN (OR LOSS) SHORT T
	F.L. REUCE (ACCOUNT P-1)							12688 31	2674
	" " " (" P-2)							173 95	518
	" " " (" P-3)							-	518
	" " " (" P-4)							173 95	518
	GEN. FILLER: (" P-1)							(7100 04)	
	" " (" P-2)							(210 65)	
	" " (" P-3)							(2097 03)	
	" " (" P-4)							(1579 08)	
	CELOTEX (" P-1)								7990
	" (" P-3)								758 6

TOTAL SHORT TERM GAIN (OR LOSS)		1980
TOTAL LONG TERM GAIN (OR LOSS)	(51 59)	
TOTAL NET CAPITAL GAIN (OR LOSS)		$ 197 21

CYPRESS

[illegible]

THY [illegible]

1162

INTEREST

LAFAYETTE NATIONAL BANK	247445
MONMOUTH COUNTY BANK	321466
UNION PLANTERS NATIONAL BANK	2252329
CHEMICAL BANK	3015554
TRADE BANK & TRUST CO	457534
MERS. HANOVER TRUST CO.	582639
FRANKLIN NATIONAL BANK	1431667
COMMERCIAL BANK OF N.A.	313930
ROYAL STATE	615496
MARINE MIDLAND	151334
FIRST NATIONAL OF CHICAGO	4555945
BANQUE PRIVÉE	6734530
CARL M. LOEB RHOADES & CO.	400640
EINHORN BEME DAHONT ELAINE	1421453
NOTES DISCOUNTED (S. KALB, L[illegible])	59961
ELKORELITZ	2741-
ABC MELTZER	91167
V. WEINTRAUB	23167
M. RICHARD	11820-
J. DANON & CO.	24727
INCOME TAX	62358
SADIF	5254190
TOTAL	33325025

EDWARD N. GILBERT

TAXATION

1963-

(2)

CONTRIBUTIONS

FOSTER PARENTS PLAN	150- C
N.Y. CLINIC FOR MENTAL HEALTH	100- C
TOTAL	250-

OTHER DEDUCTIONS

EXPENSES INCURRED IN PRODUCTION OF INCOME & CONSERVATION OF INCOME PRODUCING PROPERTIES:

SQUIRES AND CO.	750-
LETTERS OF CREDIT FEES	350-
CUSTODIAL FEES	3708.04
LEGAL FEES	1000-
TOTAL	5808.04

71-A

• SCHEDULE B (Form 1040)
U.S. Treasury Department Internal Revenue Service

SUPPLEMENTAL SCHEDULE OF INCOME AND CREDITS

(From all sources other than wages, business, farming, and sale or exchange of property)

Attach this schedule to your income tax return. Form 1040

1962

Name and address as shown on page 1 of Form 1040

Your Social Security Number

Part I.—DIVIDEND INCOME (Income from savings (building) and loan associations and credit unions should be entered as interest in Part II)

1. Name of qualifying corporation declaring dividend: (Indicate by (H), (W), (J) whether stock is held by husband, wife, or jointly)	Amount
CELOTEX	
BRUCE EL.	7702 64
	116 01
2. Total	
3. Exclusion of $50 (If both husband and wife received dividends, each is entitled to exclude not more than $50 of his (her) own dividends) •	7818 73
4. Subtract line 3 from line 2. Enter here and on line 1, Part VII •	50 00
5. Name of nonqualifying corporation declaring dividend:	7768 73
6. Total (add lines 4 and 5). Enter here and on line 5a, page 1, Form 1040 •	7768 73

Part II.—INTEREST INCOME (This includes interest credited to your account)

Note: A separate attachment may be used if interest is the only income to be reported on this schedule.

1. Name of payer (more than one entry may be made on a line)	Amount
LESLIE INC	
SEYMAN KALB	826 66
E&BRUCE CO (INCORPORATED)	728 12
	9555 56
2. Total—Enter here and on line 5b, page 1, Form 1040 •	11 321 37

Part III.—PENSION AND ANNUITY INCOME

A—General Rule (If you did not contribute to the cost of the pension or annuity, enter the total amount received on line 6 and omit lines 1 through 5.)

				Amount
1. Investment in contract		4. Amount received this year •		
2. Expected return		5. Amount excludable (line 4 multiplied by line 3)		
3. Percentage of income to be excluded (line 1 divided by line 2)	%	6. Taxable portion (excess of line 4 over line 5)		

B—Special Rule—Where your employer has contributed part of the cost and your own contribution will be recovered tax-free within 3 years. If your cost was fully recovered in prior years, enter the total amount received in line 5 and omit lines 1 through 4.

1. Cost of annuity (amounts you paid)		4. Amount received this year •	
2. Cost received tax-free in past years			
3. Remainder of cost (line 1 less line 2)		5. Taxable portion (excess, if any, of line 4 over line 3)	

Part IV.—RENT AND ROYALTY INCOME

1. Kind and location of property (Identify whether rent or royalty)	2. Total amount of rents or royalties	3. Depreciation (explain in Part VI) or depletion	4. Repairs (attach itemized list)	5. Other expenses (attach itemized list)
1. Totals •				

2. Net income (or loss) from rents and royalties (column 2 less sum of columns 3, 4, and 5)

Part V.—OTHER INCOME OR LOSSES

1. Partnerships (name, address, and nature of income)

2. Estates or trusts (name and address)

3. Other sources (state nature) COMMISSION 5000.00

TOTAL INCOME (or loss) from Parts III, IV, [illegible] 5000 00

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Schedule B (Form 1040) 1962 — Page 2

Part VI.—EXPLANATION OF DEDUCTION FOR DEPRECIATION CLAIMED IN PART IV—This schedule is designed for taxpayers using the new guideline lives and administrative procedure described in Revenue Procedure 62-21 as well as for those taxpayers who wish to continue using previously authorized procedures. Where double headings appear use the first heading for the new procedure and the second heading for the older procedure.

1. Group and guideline class — OR — Description of property	2. Cost or other basis at beginning of year — OR — Cost or other basis	3. Asset additions in year (amount) — OR — Date acquired	4. Asset retirements in year (amount) (applicable only to Rev. Proc. 62-21)	5. Depreciation allowed or allowable in prior years	6. Method of computing depreciation	7. Class life — OR — Rate (%) or life	8. Depreciation for this year
Total cost or other basis....							

1. Total depreciation.....
2. Amount of additional first-year depreciation included above.....
3. Cost or other basis of fully depreciated assets still in use.....

Part VII.—DIVIDENDS RECEIVED CREDIT

1. Amount of dividends on line 4, Part I.....	7762 73
2. Tentative credit (4% of line 1).....	310 75
3. Tax shown on line 12, page 1 of Form 1040, less amount, if any, of credit for foreign taxes.....	[illegible]
4. 4% of taxable income (see below).....	[illegible]
Taxable Income Means (a) If tax is computed, the amount shown on line 11d, page 1 of Form 1040. (b) If Tax Table is used, the amount shown on line 9, page 1 of Form 1040, less 10% thereof, and less the deduction for exemptions ($600 multiplied by the number of exemptions claimed on line 3, Schedule A, page 2 of Form 1040).	
5. Credit. Enter here and on line 15(c), Form 1040, the smallest of the amounts on line 2, 3, or 4, above....	[illegible]

Part VIII.—RETIREMENT INCOME CREDIT

If separate return, use column B only. If joint return, use column A for wife and column B for husband→	A	B
Did you receive earned income in excess of $600 in each of any 10 calendar years before the taxable year 1962? (Widows or widowers see instructions, page B-4).....	☐ Yes ☐ No	☐ Yes ☐ No
If answer above is "Yes" in either column, furnish all information below in that column.		
1. Retirement income for taxable year:		
(a) For taxpayers under 65 years of age: Enter only income received from pensions and annuities under public retirement systems (e.g. Fed., State Govts., etc.) and included in line 9, page 1, of Form 1040. •		
(b) For taxpayers 65 years of age or older: Enter total of pensions and annuities, interest, and dividends included in line 9, page 1 of Form 1040, and gross rents included in column 2, Part IV of this schedule.... •		
2. Maximum amount of retirement income for credit computation.....	1,524 00	1,524 00
3. Deduct:		
(a) Amounts received in taxable year as pensions or annuities under the Social Security Act, the Railroad Retirement Acts, and certain other exclusions from gross income. •		
(b) Earned income received in taxable year (Does not apply to persons 72 years of age or over):		
(1) Taxpayers under 62 years of age, enter amount in excess of $900..... •		
(2) Taxpayers 62 or over but under 72, enter amount determined as follows: if $1,200 or less, enter zero..... if over $1,200 but not over $1,700, enter ½ of amount over $1,200; or if over $1,700, enter excess over $1,450..... •		
4. Total of lines 3(a) and 3(b).....		
5. Balance (line 2 minus line 4).....		
6. Line 5 or line 1, whichever is smaller.....		
7. Tentative credit (20% of line 6).....		
8. Total tentative credit (total of amounts on line 7, columns A and B).....		
LIMITATION ON RETIREMENT INCOME CREDIT		
9. Amount of tax shown on line 12, page 1 of Form 1040.....		
10. Less: Total of any amounts shown on lines 15(c) and 15(f), page 1, Form 1040.....		
11. Subtract line 10 from line 9.....		
12. Credit. Enter here and on line 15(d), Form 1040, the amount on line 8 or line 11, whichever is smaller...		

U.S. GOVERNMENT PRINTING OFFICE 16—77147-1

Ex. 2-D
Dkt No. 6426-72
73-A

E. L. BRUCE CO. (INCORPORATED)
Regular Meeting of the
Board of Directors
January 8, 1962

A Regular Meeting of the Board of Directors of E. L. BRUCE CO. (INCORPORATED) was held at the office of the Corporation, 660 Madison Avenue, New York 21, New York, on Monday January 8, 1962, at 9:30 A. M., E. S. T., pursuant to notice duly given in accordance with the provisions of the By-laws.

Present: Messrs. Edwin L. Bruce, Jr., Harry Gilbert, Edward M. Gilbert, Norman P. Mason, T. Harvey Creech, Evan L. Fellman, Vance J. Alexander, Jr., Philip P. Weisberg, Henry A. Loeb, Philippe Grelsamer and Thomas H. Lenagh, constituting a quorum.

Absent: Mr. Frank H. O'Connor.

Mr. Robert N. West of Shearman & Sterling, counsel for the Corporation, was present by invitation.

Upon motion, duly made and seconded, the reading of the minutes of the Board of Directors meeting of November 13, 1961, and the Executive Committee meetings of December 4, 1961 and December 14, 1961, were dispensed with.

The President read to the Board a statement relative to the Celotex Corporation and requested that a copy be filed with the records of the meeting. It was the consensus of the directors present that the Corporation should not at this time accept the President's offer as set forth in his statement.

The Chairman reported to the Board that the option to purchase the assets of Robbins Flooring Co. had been exercised on December 15, 1961. The closing was to take place January 31, 1962. He reported, however, that the closing was dependent upon agreement on two items, without which we were not bound to close the contract. The first item was the settlement of an employment contract or contracts with Carl and Donald Abendroth. The second item was the securing of a lease satisfactory to Bruce. He advised that the officers of the Corporation were negotiating these items and would report back to the Executive Committee.

The Chairman then reported to the Board that officers of the Corporation had been investigating the purchase of the inventory and plant, machinery and

Ex. 2-B

E. L. BRUCE CO. (INCORPORATED)

74-A

Statement of E. M. Gilbert
at Board of Directors Meeting held on
January 8, 1962

I wish to advise you in strictest confidence, of what I believe may prove at some future time to be a matter of great importance to the Bruce Company. For a number of years, I have been investigating the business and potential of the Celotex Corporation, with which I think you are all generally familiar. Celotex has about 1,000,000 shares of common stock outstanding, the current market being about 33. The Company has a book value greatly in excess of the present market, and I believe it offers a great profit potential which is not now being realized. Over the course of the last year or so, I have acquired about 50,000 shares of Celotex stock at an average cost of between 30-32 a share, or an aggregate cost somewhat in excess of $1,500,000. It is my present belief that if a substantial amount of Celotex stock were held in friendly hands it might be possible at some future date to offer Bruce stock, securities and cash in exchange for the outstanding Celotex shares, but I believe that such an exchange offer at the present time would be risky and not timely. However, should the Board be of a different view, I am prepared to offer Bruce my present Celotex holdings at my cost. If the Board does not wish to acquire these holdings at this time I may dispose of them elsewhere. However, if at any future time the Board determined that it was in the corporate interest to pursue the Celotex matter further and to propose an exchange of Bruce securities for Celotex shares, it would be my intention to make my holdings available to Bruce at my cost for the purpose of facilitating any such transaction.

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75-A Ex. 3-C
Dkt #6426-72

E. L. BRUCE CO. (INCORPORATED)
Regular Meeting of the
Board of Directors
March 5, 1962

A Regular Meeting of the Board of Directors of E. L. BRUCE CO. (INCORPORATED) was held at the office of the Corporation, 660 Madison Avenue, New York 21, New York, on Monday, March 5, 1962, at 9:30 A. M., E. S. T., pursuant to notice duly given in accordance with the provisions of the By-laws.

Present: Messrs. Edwin L. Bruce, Jr., Edward M. Gilbert, Harry Gilbert, Norman P. Mason, T. Harvey Creech, Evan L. Fellman, Thomas H. Lenagh and Frank H. O'Connor, constituting a quorum.

Absent: Messrs. Vance J. Alexander, Jr., Philippe Grelsamer, Henry A. Loeb and Philip P. Weisberg.

Mr. George Dillon of Shearman & Sterling, counsel for the Corporation, and Mr. Thomas Field were present by invitation.

Upon motion, duly made and seconded, the reading of the minutes of the Board of Directors meeting of January 8, 1962 was dispensed with.

Upon motion, duly made and seconded, the Board ratified the actions taken at the Executive Committee meetings of January 25th and January 31st, 1962.

The Chairman read a letter from Mr. Vance J. Alexander, Jr., resigning as a Director. The Board voted to accept his resignation.

In preparation for the Annual Meeting of Stockholders to be held on April 17, 1962, it was, on motion duly seconded,

> RESOLVED, that the Board of Directors designate Messrs. Edwin L. Bruce, Jr., Evan L. Fellman, Norman P. Mason, T. Harvey Creech, Frank H. O'Connor, Harry Gilbert, Thomas H. Lenagh, Edward M. Gilbert, Philip P. Weisberg, Henry A. Loeb and Philippe Grelsamer as candidates for election as Directors at said meeting of stockholders.
>
> RESOLVED, that March 19, 1962 be and hereby is fixed as the record date for the determination of stockholders entitled to vote at the Annual Meeting of Stockholders to be held on April 17, 1962; and that the Secretary be directed to cause

Ex. 3-C

BEST COPY AVAILABLE

notice of such meeting be given to all stockholders of this Corporation of record at the close of business on said record date in the manner provided by the By-laws.

RESOLVED, that Messrs. Vincent DeSousa and William Brandwein be and hereby are appointed Inspectors to conduct the voting at the Annual Meeting of Stockholders to be held on April 17, 1962.

RESOLVED, that Messrs. Harry Gilbert, Edward M. Gilbert and Philip P. Weisberg be requested to act as a proxy committee for the holders of this Corporation's Common Stock at the Regular Meeting of Stockholders, and that proxies in their favor be solicited by this Corporation.

RESOLVED, that proxy material as submitted in proof of March 2, 1962 with such changes as are recommended by Shearman & Sterling, counsel for the Corporation, be approved for submission to stockholders.

The Board was advised that pursuant to its 4% Subordinated Sinking Fund Note due 1971, fourth paragraph on Page 5, the Board was required to determine the value received by the company for shares of its Common Stock issued in connection with its merger with E. L. Bruce Company. The Board discussed the values as given by the Argus Research Corporation and Lee Higginson reports of $42 to $45 per share of E. L. Bruce Company stock. Using this as a base and considering the 2-1/4 shares of the Corporation stock that was given in exchange, the Board arrived at a valuation of $19.33 per share of the Corporation stock given in exchange. Therefore, upon motion, duly made and seconded, it was hereby

RESOLVED, that for the purposes of the fourth paragraph of Page 5 of the 4% Subordinated Sinking Fund Note due 1971, the value per share of the Corporation stock given in exchange for E. L. Bruce Company stock be fixed at $19.33.

Mr. Edward M. Gilbert read a statement, a copy of which is filed with the records of the meeting. Thereupon, after a full discussion in which Mr. Gilbert responded to various questions posed by other members of the Board, on motion, duly seconded, it was

RESOLVED, that the Chairman of the Board, the President, and the Executive Vice President be, and each hereby is,

authorized to expend in the aggregate up to $400,000 of the funds of this Corporation to purchase shares of the Common Stock of The Celotex Corporation, at such price or prices as the officer expending such funds may deem advisable; that said officers be, and each hereby is, authorized to consult with Lazard Freres & Co. and Carl M. Loeb, Rhoades & Co., or either of them, to secure their recommendations with respect to the financial basis on which a combination of this Corporation with The Celotex Corporation could be effected; that said officers be, and each hereby is, authorized to discuss the combination of this Corporation and The Celotex Corporation with the management of The Celotex Corporation; and that said officers be, and each hereby is, authorized to make such further investigations of The Celotex Corporation as the officer making the same may deem advisable.

The quarterly dividend on the Common Stock of the Corporation was then discussed. Upon motion, duly made and seconded, it was unanimously

RESOLVED, that a dividend payable from the authorized and unissued shares of Common Stock, of the par value of $1 each, of this Corporation, at the rate of three shares of such Common Stock for each 200 shares thereof held, is hereby declared payable on April 30, 1962, to the holders of record (other than E. L. Bruce Co. (Incorporated) for shares held in Treasury) of the outstanding shares of such Common Stock at the close of business on April 2, 1962; provided, that no fractional shares of Common Stock or certificates or scrip therefor shall be issued but, in lieu thereof, the shares of Common Stock representing the aggregate fractional interests shall be sold on April 16, 1962, or as soon thereafter as may be practicable, for the account of the holders of such fractional interests on the American Stock Exchange, or otherwise, all expenses and taxes incident to such sale to be borne by this Corporation, and the proceeds of sale remitted to those entitled thereto in accordance with their proportionate interests therein;

RESOLVED, that upon payment of the said dividend payable in shares of Common Stock, there be transferred from earned surplus, with respect to each share issued in payment therefor, an amount approximately equal to the fair value of a share of such Common Stock, determined by the approximate market price of such shares on the American Stock Exchange on March 5, 1962, adjusted to give effect to the additional shares of Common Stock to be outstanding upon the payment of the said dividend, and that of the amount so transferred, the sum of $1 be credited to the Common Stock capital account and the balance thereof be credited to the capital surplus account;

RESOLVED, that The Manufacturers Hanover Trust Company, Transfer Agent, be requested to act as agent for the holders of Common Stock of this Corporation to effect sales of shares representing fractional interests for the account of the holders thereof, and that the said Bank, as such agent, be authorized to act in accordance with such

E. L. BRUCE CO. (INCORPORATED)

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Statement of E. M. Gilbert
at Board of Directors Meeting held on
March 5, 1962

At our meeting on January 8, 1962 I reported to you with respect to the Celotex Corporation. Since that date I have disposed of the 50,000 shares of common stock of The Celotex Corporation I then owned but, presently, I expect to purchase additional shares and I wish to reiterate my offer to make any such shares available to this Corporation at my cost.

On the basis of information presently available to me it appears that if a combination of this Corporation and The Celotex Corporation can be effected on a reasonable basis, such a combination would be in the best interests of this Corporation.

1. The product lines of the two corporations are complementary, increased sales, substantial cost savings and increased efficiency could be effected by distributing such product lines through one distribution system.
2. The working capital position of The Celotex Corporation is particularly strong in view of the requirements of its business.
3. On the basis of its published statements the market value of the assets of The Celotex Corporation carried in its investment account are substantially in excess of book value.
4. Certain operating assets of the two corporations complement each other. For example, The Celotex Corporation owns a substantial tract of Maples near Ishpeming, Michigan sufficient to supply the recently acquired Robbins plant of this Corporation, located at Ishpeming, Michigan on a perpetual yield basis.

While I have not solicited any support from The Celotex Corporation shareholders, or made or received any commitments from any of them, a number

of my friends and acquaintances agreeing with my appraisal of The Celotex Corporation have purchased a substantial number of shares. It is my belief that, at present, approximately 400,000 shares of the common stock of The Celotex Corporation, out of a total of 1,028,651 outstanding, are in the hands of persons who would favor a combination of it with this Corporation.

In view of the foregoing, I recommend that the Board consider the following program:

(a) Authorize the Chairman of the Board and/or President and/or Executive Vice President to expend an aggregate of not more than $400,000 of this Corporation's funds to purchase shares of the common stock of The Celotex Corporation at such prices as they deem advisable. (The closing price of a share of such stock on March 2, 1962 on the New York Stock Exchange was $40.125.)

(b) Authorize the Chairman of the Board and/or President and/or Executive Vice President to consult with Lazard Freres and Carl M. Loeb, Rhoades to secure their recommendations of a feasible financial basis on which a combination of this Corporation with The Celotex Corporation could be effected.

(c) Authorize the Chairman of the Board and/or President and/or Executive Vice President to meet with the management of The Celotex Corporation to ascertain their attitude with respect to a combination of this Corporation with The Celotex Corporation.

(d) Authorize the Chairman of the Board, and/or President and/or Executive Vice President to make such further investigation of The Celotex Corporation as they deem advisable.

E. L. BRUCE CO. (INCORPORATED)
Special Meeting of the
Board of Directors
April 17, 1962

A Special Meeting of the Board of Directors of E. L. BRUCE CO. (INCORPORATED) was held at the office of the Corporation, 660 Madison Avenue, New York 21, New York, on Tuesday, April 17, 1962, at 1:00 P. M., E. S. T., pursuant to notice duly given in accordance with the provisions of the By-laws.

Present: Messrs. Edward M. Gilbert, Harry Gilbert, T. Harvey Creech, Evan L. Fellman, Philippe Grelsamer, Thomas H. Lenagh, Henry A. Loeb, Norman P. Mason, Frank H. O'Connor and Philip P. Weisberg.

Absent: Mr. Edwin L. Bruce, Jr.

In the absence of the Chairman, Mr. Harry Gilbert presided.

The Secretary presented to the meeting the report of the Inspectors of Election of the Annual Meeting of Stockholders held April 17, 1962, showing the election of the following as Directors of the Corporation to serve until the next Annual Meeting of Stockholders and until the election and qualification of their successors:

Edwin L. Bruce, Jr.
Edward M. Gilbert
Harry Gilbert
T. Harvey Creech
Evan L. Fellman
Philippe Grelsamer
Thomas H. Lenagh
Henry A. Loeb
Norman P. Mason
Frank H. O'Connor
Philip P. Weisberg

The meeting then proceeded to the designation of the Executive Committee and the election of officers, as provided for in the By-laws of the Corporation.

Upon motion, duly made and seconded, it was hereby

RESOLVED, that the following directors shall constitute an Executive Committee pursuant to Article III of the By-laws:

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Board that in a separate letter to Mr. Weir under the same date he had asked them to consider an increase in the present Note by $1,800,000, advising Mr. Weir that this amount was necessary in connection with the acquisition of stock of The Celotex Corporation. Upon motion, duly made and seconded, it was

RESOLVED, that the President be authorized to make the following changes in our Promissory Note due to the Connecticut Mutual Life Insurance Company with the consent of the Note Holder:

1. Increase the limit on short term borrowings from $5,000,000 to $7,500,000.

2. Increase the limit of other investments from $1,000,000 to $2,000,000.

3. Get permission to apply the proceeds of the liquidation of non-current assets to purchase the stock of The Celotex Corporation.

RESOLVED FURTHER, that the President be empowered to negotiate an increase of $1,800,000 in the present Note with Connecticut Mutual Life Insurance Company subject to Board approval.

The Board then discussed the possibilities of selling the Corona mortgage. The Board authorized the President or the Chairman of the Executive Committee to negotiate for the sale of the mortgage subject to Board approval.

The Board then proceeded to the discussion of its investment in The Celotex Corporation. Mr. Edward M. Gilbert read a letter dated April 5, 1962 which he had sent to Mr. Henry Collins, President of The Celotex Corporation. Mr. Gilbert requested the Board to grant approval to invest additional funds in The Celotex Corporation stock. Upon motion, duly made and seconded, it was

RESOLVED, that the authorization to purchase $400,000 of stock of The Celotex Corporation granted at the Board of Directors meeting of March 5, 1962, be hereby increased by $1,000,000., plus proceeds from the liquidation of non-current assets, plus the proceeds received from any increase in the Connecticut Mutual Life Insurance Company Note to the extent of $1,800,000; and

RESOLVED, that any officer of the Corporation be authorized to open an account with Lazard Freres & Co., for the purpose of purchasing stock in The Celotex Corporation as authorized by the Board of Directors.

~~22340~~

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Doc. No.
6426-72

E. L. BRUCE CO. (INCORPORATED)
Special Meeting of the
Board of Directors
June 12, 1962

A Special Meeting of the Board of Directors of E. L. BRUCE CO. (INCORPORATED) was held at the office of the Corporation, 660 Madison Avenue, New York 21, New York, on Tuesday, June 12, 1962, at 10:30 A. M., D. S. T., pursuant to notice duly given in accordance with the provisions of the By-laws.

Present: Messrs. Edwin L. Bruce, Jr., Harry Gilbert, Edward M. Gilbert, Frank H. O'Connor, T. Harvey Creech, Evan L. Fellman, Philip P. Weisberg, Henry A. Loeb, Norman P. Mason and Philippe Grelsamer, constituting a quorum.

Absent: Mr. Thomas H. Lenagh.

Mr. Robert N. West and Mr. George Dillon of Shearman & Sterling, Mr. Bethuel M. Webster and Mr. Frederick Sheffield of Webster Sheffield Fleischmann Hitchcock & Chrystie, and Mr. John Cahill of Cahill, Gordon, Reindel & Ohl, were present be invitation.

Upon motion, duly made and seconded, the reading and approval of the minutes of the Board of Directors meeting of April 17, 1962 were waived until the next regular meeting.

The Board was notified that because of the loss of the sawmill at Vredenburgh by fire on April 21, 1962, notice had been given to Vredenburgh Alabama Properties that it was the intention of the Corporation to abandon its operations in Vredenburgh. Upon motion, duly made and seconded, it was

> RESOLVED, that the Board authorize the sale of all of the properties acquired from Vredenburgh Alabama Properties on a purchase contract dated April 11, 1955 pursuant to the option and the conditions as outlined in said purchase agreement, which option has been exercised by Vredenburgh Alabama Properties.

The Board was informed that the E. L. Bruce Co. of Texas had entered into an agreement with the Centre Foundation at Centre, Texas whereby the Centre Foundation would provide additional buildings and facilities on the

E+5-E

property at Centre, Texas under lease to E. L. Bruce Co. of Texas. In connection with these facilities, the Centre Foundation has agreed to a new lease with the E. L. Bruce Co. of Texas for a period of five years at $3,259.97 per month and a letter authorizing the renewal of this lease for a further five-year period at $2,513.30 per month with extensions thereafter at a nominal rate. The Centre Foundation requested a guarantee of the parent corporation on the lease and, therefore, on motion, duly made, seconded and carried, it was

RESOLVED, that the Corporation guarantee a lease entered into between E. L. Bruce Co. of Texas, a wholly owned subsidiary, and the Centre Foundation, pursuant to terms as outlined above, and that a proper officer be authorized to execute said guarantee.

An application for the issue of a replacement stock certificate was presented; and on motion, duly seconded, it was

RESOLVED, that upon receipt of an indemnity bond in form and with corporate surety acceptable to the officers of this Corporation, in which this Corporation and its Transfer Agent and Registrar are named as obligees, the proper officers of this Corporation be and they are hereby authorized and directed to cause to be issued to Mr. M. P. Ransom, and to be countersigned and registered by the Transfer Agent and the Registrar, a certificate representing seventy-five (75) shares of Common Stock of this Corporation in lieu of lost certificate in similar registration.

Upon motion, duly made and seconded, the Board then authorized the opening of a bank account for the Corporation in the Thomas Street Branch of the Union Planters National Bank of Memphis for the purpose of making payroll advances to Memphis plant employees, pursuant to the following resolutions:

BE IT RESOLVED, that any two of the following: President, Vice President, Secretary, Treasurer and/or the Authorized Signatures of Cecil Neal, H. K. Magness, Frank May, Paul Townsend and William Carrell of this Corporation, be and they are authorized for and on behalf of said Corporation to open an account or accounts with the Union Planters National Bank of Memphis, Tennessee, in the name of E. L. BRUCE CO. (INCORPORATED) and to draw and sign checks against said account.

AND BE IT FURTHER RESOLVED, that said Union Planters National Bank of Memphis, Tennessee, is hereby authorized and directed to honor and pay any checks so drawn, when so signed, whether or not such checks be payable to the order of any officer or person signing

said checks, or any of said officers or persons in their individual capacities, and whether or not such checks are deposited to the individual credit of the officer or person signing said checks, or to the individual credit of any of the other officers or persons.

AND BE IT FURTHER RESOLVED, that the Secretary of this company is authorized to certify, under the corporate seal of this Corporation, to said Bank a copy of these resolutions and the names of the officers or employees of the Corporation thereby authorized to act in the premises, and said Bank is hereby authorized to rely upon such certificate of the Secretary of the Corporation until it is formally advised by a subsequent certificate in writing, and under the corporate seal, of any changes therein.

Mr. West then introduced Mr. Webster and Mr. Sheffield and explained to the Board that, in view of what he was then going to tell them, he had advised that they be brought in as special counsel for the Corporation inasmuch as he was representing Mr. Edward M. Gilbert in the matter.

The Board thereupon resolved that the firm of Webster Sheffield Fleischmann Hitchcock & Chrystie be retained as special counsel in connection with the matter to be taken up at the meeting.

Mr. West also introduced Mr. John Cahill, who was present as counsel for Mr. Henry A. Loeb.

Mr. West informed the Board that Mr. Edward M. Gilbert had informed his (Mr. West's) associate, Mr. George Dillon, that during the period from May 28th through June 6th, Mr. Edward M. Gilbert had made or caused to be made, a series of unauthorized withdrawals from the Corporation in the total amount of $1,953,000. Mr. West described the circumstances leading up to the withdrawals and the manner in which they were made.

Mr. Webster then questioned each of the directors as to their knowledge of these withdrawals and each director stated that he had not been informed by Mr. Gilbert of his plans to make the withdrawals and had neither authorized or consented to them in any respect.

Mr. West then briefly described to the Board the negotiations with

Ruberoid Inc. to sell all of the Corporation's and all of Mr. Edward M. Gilbert's shares of Celotex at a price of $36 per share. However, he stated that he had just been informed that the Board of Directors of Ruberoid had rejected the purchase.

The Board then took a short recess.

Upon reconvening, Mr. Webster made the following recommendations:

(1) that Mr. Edward M. Gilbert resign as President and Director and Mr. Irwin Polivy resign as Secretary of the Corporation and that a new President and Secretary be elected.

(2) that the authority to sign checks be changed to withdraw the authorization of the present President and Secretary.

(3) that the Corporation's accountants, Peat, Marwick, Mitchell & Co., be notified to make an immediate examination of the books and records of the Corporation.

(4) that the Securities & Exchange Commission, the American Stock Exchange, the Connecticut Mutual Life Insurance Company and the Seaboard Surety Company be immediately notified of the withdrawals.

(5) that an appropriate public announcement be issued by the Corporation.

The meeting then recessed until 2:45 P. M.

The meeting reconvened at 2:45 P. M. All of the directors who had attended the earlier session of the meeting were present.

Mr. Edward M. Gilbert then presented his resignation as a Director and President of the Corporation and all of its subsidiaries. This was ordered attached to the record of the meeting and, on motion, duly made and seconded, it was hereby

RESOLVED, that the resignation of Mr. Edward M. Gilbert as President and Director of the Corporation and all of its subsidiaries be and it hereby is accepted.

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Mr. Edwin L. Bruce, Jr. was then nominated as President of E. L. Bruce Co. (Incorporated) and, upon motion, duly made and seconded, it was

> RESOLVED, that the Secretary of the Meeting be instructed to cast a joint ballot of the directors present in favor of the election of Mr. Edwin L. Bruce, Jr. as President to serve in that capacity in accordance with the By-laws of the Corporation in addition to his duties as Chairman of the Board of the Corporation.

Mr. Irwin Polivy presented his resignation as Secretary of the Corporation and all of its subsidiaries. With reference to Mr. Polivy's resignation, Mr. Edward M. Gilbert stated that he assumed full responsibility for the withdrawals and that all the withdrawals were made at his direction. The resignation of Mr. Polivy was ordered attached to the record of the meeting and, on motion, duly made and seconded, it was hereby

> RESOLVED, that the resignation of Mr. Irwin Polivy as Secretary of the Corporation and all of its subsidiaries be and it hereby is accepted.

Mr. T. Harvey Creech was then nominated as Secretary of E. L. Bruce Co. (Incorporated) and, upon motion, duly made and seconded, it was

> RESOLVED, that Mr. T. Harvey Creech be and hereby is elected Secretary of the Corporation to serve in that capacity in accordance with the By-laws of the Corporation in addition to his duties as Vice President of the Corporation.

On Motion, duly made and seconded, it was hereby

> RESOLVED, that the proper officers of the Corporation be and they hereby are authorized and directed to notify all the banks and lending institutions of the Corporation of the resignations of Mr. Edward M. Gilbert and Mr. Irwin Polivy as President and Secretary, respectively, of the Corporation, and of the withdrawal of any and all authorization which may have been granted to said individuals pursuant to any banking or borrowing resolutions heretofore adopted by the Board.

The Board then discussed generally the possibilities open to Mr. Gilbert to reimburse the Corporation for the withdrawals. He said he expected to meet later in the day with representatives of a possible purchaser of his stock in the

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Corporation. After a full discussion of the possibilities of recovering for the Corporation the withdrawals through the proposals of Mr. Gilbert, the Board instructed him to continue his negotiations and to report later in the day on their results.

On motion, duly made and seconded, the following resolutions were unanimously adopted:

> RESOLVED, that the proper officers of the Corporation be and hereby are authorized and directed to request Peat, Marwick, Mitchell & Co., the Corporation's auditors, to conduct an examination of the Corporation's books and report to the Board at the earliest possible moment.
>
> FURTHER RESOLVED, that the proper officers of the Corporation be and they hereby are authorized and directed to inform the Regional Office of the Securities and Exchange Commission, the American Stock Exchange, the Connecticut Mutual Life Insurance Company and the Seaboard Surety Company of the disclosures made to the meeting today.
>
> FURTHER RESOLVED, that the proper officers of the Corporation be and they hereby are authorized to release for publication the following statement:
>
> "Mr. E. L. Bruce, Jr., Chairman of E. L. Bruce Co. (Incorporated) announced that at a meeting of the Board of Directors held today Edward M. Gilbert has resigned as President and as a Director and that Mr. Bruce has been elected President. He will also continue as Chairman. Mr. Bruce stated that Mr. Gilbert's resignation followed his disclosure to the Board of Directors today that between May 28th and June 6th he had made unauthorized withdrawals from the Corporation in the amount of $1,953,000. He also reported that the Corporation had a surety bond in the amount of $750,000. Special counsel retained in connection with this matter, Bethuel M. Webster and Frederick Sheffield of Webster Sheffield Fleischmann Hitchcock & Chrystie, have been instructed to present the facts to the Securities & Exchange Commission and the American Stock Exchange.
>
> Mr. Bruce said that prospects for the company were bright and that sales are currently running approximately 30% above the levels of last year."

The Board then discussed measures which should be taken to protect the interests of the Corporation, and on motion, duly made and seconded, it was

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RESOLVED, that special counsel for the Corporation, he and they hereby are authorized and directed to consider the measures which should be taken to protect the interests of the Corporation as a result of the disclosures made to this meeting, and to take any and all action which they deem appropriate, including the bringing of legal action against Edward M. Gilbert.

There being no further business, on motion, duly seconded, the meeting adjourned.

T. Harvey Creech, Secretary

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E. L. BRUCE CO. MEMPHIS 1, TENN.

(INCORPORATED)

HARDWOOD FLOORINGS • LUMBER • WOOD PARTS • TERMINIX • FLOOR CLEANERS & WAXES

EXECUTIVE OFFICES:
SUITE 1800
660 MADISON
NEW YORK 21, NEW YORK

Feb 17, 1962

I hereby resign as President
and director of the E. L. Bruce Co.
and all subsidiary Corps.

Elmer York

Gen No. 6426-72

INTEREST BEARING PROMISSORY NOTE

$ 250,000

New York, New York
May 23, 1962

ON DEMAND, FOR VALUE RECEIVED, the undersigned promises to pay to the order of E. L. BRUCE CO. (INCORPORATED), a New York corporation (hereinafter called the "Lender"), at its office at 660 Madison Avenue, New York, New York, the sum of Two Hundred Fifty Thousand DOLLARS, with interest thereon, from the date hereof to and including the day when this note becomes payable, at the rate of six per cent per annum.

I. As collateral security for the payment of (i) the indebtedness evidenced hereby or by any note(s) which may be given in renewal or extension of all or any part of that indebtedness, and (ii) any and all other obligations and/or liabilities, direct or contingent, of the undersigned to the Lender, due or to become due, whether now existing or hereafter arising, (the indebtedness evidenced hereby and any and all such other obligations and liabilities being hereinafter referred to as the "Obligations"), the undersigned hereby pledges tothe Lender any and all of his property now or at any time(s) hereafter in the possession or control of the Lender and hereby gives the Lender a lien upon all the property as aforesaid for the amount(s) owing at any time(s) on the Obligations.

II. Furthermore, the undersigned agrees: (a) that, in event of any new or additional certificate(s) of stock being issued (as stock dividends or otherwise) relative to any stock held by the Lender at the time as security hereunder, such certificate(s) shall be deemed an increment to the stock so held and under pledge to the Lender and that, therefore, such certificate(s) will--to the extent received by or placed under the control of the undersigned--be held or controlled in trust for the Lender and will be promptly delivered to the Lender (in form for transfer) to be held hereunder; (b) that the Lender shall be under no duty with respect to any property held relative hereto at any time(s) except to account therefor in due course pursuant to the terms and provisions hereof, and (c) that the Lender may, in its discretion and in the absence of other express instruction in writing, apply any amount(s), which may be paid to and/or received or held by it relative hereto at any time(s), to the payment or reduction, either in whole or in part, of the principal and/or interest (as the Lender may elect) then owing on all or any of the Obligations.

III. In event of the happening of any one or more of the following, to wit: (a) the non-payment of any of the Obligations; (b) the death of the undersigned; (c) any petition in bankruptcy being

filed by or against the undersigned or any endorser or guarantor of this note, or any proceedings in bankruptcy, or under any Acts of Congress relating to the relief of debtors, being commenced for the relief or readjustment of any indebtedness of the undersigned or any endorser or guarantor of this note, either through reorganization, composition, extension or otherwise; (d) the making by the undersigned or any endorser or guarantor of this note of an assignment for the benefit of creditors or the taking advantage by any of the same of any insolvency law; (e) the appointment of a receiver of any property of the undersigned or any endorser or guarantor of this note; (f) the attachment or distraint of any funds or other property of the undersigned which may be in, or come into, the possession or control of the Lender or of the same becoming subject at any time to any mandatory order of court or other legal process--then, or at any time after the happening of any such event, this note and/or any note(s) or other obligation(s) which may be taken in renewal or extension of all or any part of the indebtedness evidenced thereby, shall immediately become due and payable, without demand or notice, and likewise upon the happening of any such event, or at any time thereafter, any or all of the other Obligations then existing shall, at the option of the Lender, become due and payable forthwith, without demand upon or notice to the undersigned. Furthermore, in any such event, full power and authority are hereby given the Lender to sell, assign and deliver the whole, or any part(s) thereof, of the property hereinbefore pledged to it or at public or private sale, at the option of the Lender, either for cash or on credit or for future delivery, without assumption of any credit risk, and without either demand, advertisement or notice of any kind, all of which are hereby waived, and no delay on the part of the Lender in exercising any power of sale or any other rights or options hereunder, and no notice or demand, which may be given to or made upon the undersigned by the Lender with respect to any power of sale or other right or option hereunder, shall constitute a waiver thereof, or limit or impair the right of the Lender to take any action or to exercise any power of sale or any other rights hereunder, without notice or demand, or prejudice the rights of the Lender as against the undersigned in any respect. At any sale hereunder, the Lender may itself purchase the whole or any part of the property sold, free from any right of redemption on the part of the undersigned, all such rights being also hereby waived and released. In event of any sale or other disposition of any of the property aforesaid, after deducting all costs or expenses of every kind for care, safekeeping, collection, sale, delivery or otherwise, the Lender shall, after applying the residue of the proceeds of the sale, or other disposition thereof, as hereinabove authorized and after making proper allowance for interest on Obligations not then due, return any overplus to the undersigned, all without prejudice to the rights of the Lender as against the undersigned with respect to any and all amounts which may then be or remain unpaid on any Obligations.

IV. The word "property" as used herein includes goods and merchandise, as well as any and all documents relative thereto; also, funds, securities, choses in action and any and all other forms of property, whether real, personal or mixed, and any right, title or interest of the undersigned therein or thereto.

V. The Lender is hereby authorized, at its option and without any obligation to do so, to transfer to or register in its name, street name, or in the name of nominee(s) all or any part of the property referred to hereinabove, and to do so before or after the maturity of any of the Obligations, and with or without notice to the undersigned.

VI. The Lender may transfer this note and deliver to the transferee(s) all or any of the property then held by it as security hereunder, and the transferee(s) shall thereupon become vested with all the powers and rights herein given to the Lender with respect thereto; and the Lender shall thereafter be forever relieved and fully discharged from any liability or responsibility in the matter, but the Lender shall retain all rights and powers hereby given with respect to property not so transferred.

VII. The undersigned hereby waives presentment for payment, demand, notice of dishonor and protest of this note and further agrees that this note shall be deemed to have been made under and shall be governed by the laws of the State of New York in all respects, including matters of construction, validity and performance, and that none of its terms or provisions may be waived, altered, modified or amended except as the Lender may consent thereto in writing duly signed for and on its behalf.

/s/ Edward M. Gilbert
(Edward M. Gilbert)

INTEREST BEARING PROMISSORY NOTE

$ 540,000

New York, New York
May 29, 1962

ON DEMAND, FOR VALUE RECEIVED, the undersigned promises to pay to the order of E. L. BRUCE CO. (INCORPORATED), a New York corporation (hereinafter called the "Lender"), at its office at 660 Madison Avenue, New York, New York, the sum of FIVE HUNDRED FORTY THOUSAND DOLLARS, with interest thereon, from the date hereof to and including the day when this note becomes payable, at the rate of six per cent per annum.

I. As collateral security for the payment of (i) the indebtedness evidenced hereby or by any note(s) which may be given in renewal or extension of all or any part of that indebtedness, and (ii) any and all other obligations and/or liabilities, direct or contingent, of the undersigned to the Lender, due or to become due, whether now existing or hereafter arising, (the indebtedness evidenced hereby and any and all such other obligations and liabilities being hereinafter referred to as the "Obligations"), the undersigned hereby pledges tothe Lender any and all of his property now or at any time(s) hereafter in the possession or control of the Lender and hereby gives the Lender a lien upon all the property as aforesaid for the amount(s) owing at any time(s) on the Obligations.

II. Furthermore, the undersigned agrees: (a) that, in event of any new or additional certificate(s) of stock being issued (as stock dividends or otherwise) relative to any stock held by the Lender at the time as security hereunder, such certificate(s) shall be deemed an increment to the stock so held and under pledge to the Lender and that, therefore, such certificate(s) will--to the extent received by or placed under the control of the undersigned--be held or controlled in trust for the Lender and will be promptly delivered to the Lender (in form for transfer) to be held hereunder; (b) that the Lender shall be under no duty with respect to any property held relative hereto at any time(s) except to account therefor in due course pursuant to the terms and provisions hereof, and (c) that the Lender may, in its discretion and in the absence of other express instruction in writing, apply any amount(s), which may be paid to and/or received or held by it relative hereto at any time(s), to the payment or reduction, either in whole or in part, of the principal and/or interest (as the Lender may elect) then owing on all or any of the Obligations.

III. In event of the happening of any one or more of the following, to wit: (a) the non-payment of any of the Obligations; (b) the death of the undersigned; (c) any petition in bankruptcy being

filed by or against the undersigned or any endorser or guarantor of this note, or any proceedings in bankruptcy, or under any Acts of Congress relating to the relief of debtors, being commenced for the relief or readjustment of any indebtedness of the undersigned or any endorser or guarantor of this note, either through reorganization, composition, extension or otherwise; (d) the making by the undersigned or any endorser or guarantor of this note of an assignment for the benefit of creditors or the taking advantage by any of the same of any insolvency law; (e) the appointment of a receiver of any property of the undersigned or any endorser or guarantor of this note; (f) the attachment or distraint of any funds or other property of the undersigned which may be in, or come into, the possession or control of the Lender or of the same becoming subject at any time to any mandatory order of court or other legal process--then, or at any time after the happening of any such event, this note and/or any note(s) or other obligation(s) which may be taken in renewal or extension of all or any part of the indebtedness evidenced thereby, shall immediately become due and payable, without demand or notice, and likewise upon the happening of any such event, or at any time thereafter, any or all of the other Obligations then existing shall, at the option of the Lender, become due and payable forthwith, without demand upon or notice to the undersigned. Furthermore, in any such event, full power and authority are hereby given the Lender to sell, assign and deliver the whole, or any part(s) thereof, of the property hereinbefore pledged to it or at public or private sale, at the option of the Lender, either for cash or on credit or for future delivery, without assumption of any credit risk, and without either demand, advertisement or notice of any kind, all of which are hereby waived, and no delay on the part of the Lender in exercising any power of sale or any other rights or options hereunder, and no notice or demand, which may be given to or made upon the undersigned by the Lender with respect to any power of sale or other right or option hereunder, shall constitute a waiver thereof, or limit or impair the right of the Lender to take any action or to exercise any power of sale or any other rights hereunder, without notice or demand, or prejudice the rights of the Lender as against the undersigned in any respect. At any sale hereunder, the Lender may itself purchase the whole or any part of the property sold, free from any right of redemption on the part of the undersigned, all such rights being also hereby waived and released. In event of any sale or other disposition of any of the property aforesaid, after deducting all costs or expenses of every kind for care, safekeeping, collection, sale, delivery or otherwise, the Lender shall, after applying the residue of the proceeds of the sale, or other disposition thereof, as hereinabove authorized and after making proper allowance for interest on Obligations not then due, return any overplus to the undersigned, all without prejudice to the rights of the Lender as against the undersigned with respect to any and all amounts which may then be or remain unpaid on any Obligations.

IV. The word "property" as used herein includes goods and merchandise, as well as any and all documents relative thereto; also, funds, securities, choses in action and any and all other forms of property, whether real, personal or mixed, and any right, title or interest of the undersigned therein or thereto.

V. The Lender is hereby authorized, at its option and without any obligation to do so, to transfer to or register in its name, street name, or in the name of nominee(s) all or any part of the property referred to hereinabove, and to do so before or after the maturity of any of the Obligations, and with or without notice to the undersigned.

VI. The Lender may transfer this note and deliver to the transferee(s) all or any of the property then held by it as security hereunder, and the transferee(s) shall thereupon become vested with all the powers and rights herein given to the Lender with respect thereto; and the Lender shall thereafter be forever relieved and fully discharged from any liability or responsibility in the matter, but the Lender shall retain all rights and powers hereby given with respect to property not so transferred.

VII. The undersigned hereby waives presentment for payment, demand, notice of dishonor and protest of this note and further agrees that this note shall be deemed to have been made under and shall be governed by the laws of the State of New York in all respects, including matters of construction, validity and performance, and that none of its terms or provisions may be waived, altered, modified or amended except as the Lender may consent thereto in writing duly signed for and on its behalf.

Edward M. Gilbert

(Edward M. Gilbert)

INTEREST BEARING PROMISSORY NOTE

$ 616,000

New York, New York
June 1, 1962

ON DEMAND, FOR VALUE RECEIVED, the undersigned promises to pay to the order of E. L. BRUCE CO. (INCORPORATED), a New York corporation (hereinafter called the "Lender"), at its office at 660 Madison Avenue, New York, New York, the sum of SIX HUNDRED SIXTEEN THOUSAND DOLLARS, with interest thereon, from the date hereof to and including the day when this note becomes payable, at the rate of six per cent per annum.

I. As collateral security for the payment of (i) the indebtedness evidenced hereby or by any note(s) which may be given in renewal or extension of all or any part of that indebtedness, and (ii) any and all other obligations and/or liabilities, direct or contingent, of the undersigned to the Lender, due or to become due, whether now existing or hereafter arising, (the indebtedness evidenced hereby and any and all such other obligations and liabilities being hereinafter referred to as the "Obligations"), the undersigned hereby pledges tothe Lender any and all of his property now or at any time(s) hereafter in the possession or control of the Lender and hereby gives the Lender a lien upon all the property as aforesaid for the amount(s) owing at any time(s) on the Obligations.

II. Furthermore, the undersigned agrees: (a) that, in event of any new or additional certificate(s) of stock being issued (as stock dividends or otherwise) relative to any stock held by the Lender at the time as security hereunder, such certificate(s) shall be deemed an increment to the stock so held and under pledge to the Lender and that, therefore, such certificate(s) will--to the extent received by or placed under the control of the undersigned--be held or controlled in trust for the Lender and will be promptly delivered to the Lender (in form for transfer) to be held hereunder; (b) that the Lender shall be under no duty with respect to any property held relative hereto at any time(s) except to account therefor in due course pursuant to the terms and provisions hereof, and (c) that the Lender may, in its discretion and in the absence of other express instruction in writing, apply any amount(s), which may be paid to and/or received or held by it relative hereto at any time(s), to the payment or reduction, either in whole or in part, of the principal and/or interest (as the Lender may elect) then owing on all or any of the Obligations.

III. In event of the happening of any one or more of the following, to wit: (a) the non-payment of any of the Obligations; (b) the death of the undersigned; (c) any petition in bankruptcy being

filed by or against the undersigned or any endorser or guarantor of this note, or any proceedings in bankruptcy, or under any Acts of Congress relating to the relief of debtors, being commenced for the relief or readjustment of any indebtedness of the undersigned or any endorser or guarantor of this note, either through reorganization, composition, extension or otherwise; (d) the making by the undersigned or any endorser or guarantor of this note of an assignment for the benefit of creditors or the taking advantage by any of the same of any insolvency law; (e) the appointment of a receiver of any property of the undersigned or any endorser or guarantor of this note; (f) the attachment or distraint of any funds or other property of the undersigned which may be in, or come into, the possession or control of the Lender or of the same becoming subject at any time to any mandatory order of court or other legal process--then, or at any time after the happening of any such event, this note and/or any note(s) or other obligation(s) which may be taken in renewal or extension of all or any part of the indebtedness evidenced thereby, shall immediately become due and payable, without demand or notice, and likewise upon the happening of any such event, or at any time thereafter, any or all of the other Obligations then existing shall, at the option of the Lender, become due and payable forthwith, without demand upon or notice to the undersigned. Furthermore, in any such event, full power and authority are hereby given the Lender to sell, assign and deliver the whole, or any part(s) thereof, of the property hereinbefore pledged to it or at public or private sale, at the option of the Lender, either for cash or on credit or for future delivery, without assumption of any credit risk, and without either demand, advertisement or notice of any kind, all of which are hereby waived, and no delay on the part of the Lender in exercising any power of sale or any other rights or options hereunder, and no notice or demand, which may be given to or made upon the undersigned by the Lender with respect to any power of sale or other right or option hereunder, shall constitute a waiver thereof, or limit or impair the right of the Lender to take any action or to exercise any power of sale or any other rights hereunder, without notice or demand, or prejudice the rights of the Lender as against the undersigned in any respect. At any sale hereunder, the Lender may itself purchase the whole or any part of the property sold, free from any right of redemption on the part of the undersigned, all such rights being also hereby waived and released. In event of any sale or other disposition of any of the property aforesaid, after deducting all costs or expenses of every kind for care, safekeeping, collection, sale, delivery or otherwise, the Lender shall, after applying the residue of the proceeds of the sale, or other disposition thereof, as hereinabove authorized and after making proper allowance for interest on Obligations not then due, return any overplus to the undersigned, all without prejudice to the rights of the Lender as against the undersigned with respect to any and all amounts which may then be or remain unpaid on any Obligations.

IV. The word "property" as used herein includes goods and merchandise, as well as any and all documents relative thereto; also, funds, securities, choses in action and any and all other forms of property, whether real, personal or mixed, and any right, title or interest of the undersigned therein or thereto.

V. The Lender is hereby authorized, at its option and without any obligation to do so, to transfer to or register in its name, street name, or in the name of nominee(s) all or any part of the property referred to hereinabove, and to do so before or after the maturity of any of the Obligations, and with or without notice to the undersigned.

VI. The Lender may transfer this note and deliver to the transferee(s) all or any of the property then held by it as security hereunder, and the transferee(s) shall thereupon become vested with all the powers and rights herein given to the Lender with respect thereto; and the Lender shall thereafter be forever relieved and fully discharged from any liability or responsibility in the matter, but the Lender shall retain all rights and powers hereby given with respect to property not so transferred.

VII. The undersigned hereby waives presentment for payment, demand, notice of dishonor and protest of this note and further agrees that this note shall be deemed to have been made under and shall be governed by the laws of the State of New York in all respects, including matters of construction, validity and performance, and that none of its terms or provisions may be waived, altered, modified or amended except as the Lender may consent thereto in writing duly signed for and on its behalf.

Edward M. Gilbert

(Edward M. Gilbert)

INTEREST BEARING PROMISSORY NOTE

$ 100,000

New York, New York
June 5, 1962

ON DEMAND, FOR VALUE RECEIVED, the undersigned promises to pay to the order of E. L. BRUCE CO. (INCORPORATED), a New York corporation (hereinafter called the "Lender"), at its office at 660 Madison Avenue, New York, New York, the sum of One Hundred Thousand DOLLARS, with interest thereon, from the date hereof to and including the day when this note becomes payable, at the rate of six per cent per annum.

I. As collateral security for the payment of (i) the indebtedness evidenced hereby or by any note(s) which may be given in renewal or extension of all or any part of that indebtedness, and (ii) any and all other obligations and/or liabilities, direct or contingent, of the undersigned to the Lender, due or to become due, whether now existing or hereafter arising, (the indebtedness evidenced hereby and any and all such other obligations and liabilities being hereinafter referred to as the "Obligations"), the undersigned hereby pledges tothe Lender any and all of his property now or at any time(s) hereafter in the possession or control of the Lender and hereby gives the Lender a lien upon all the property as aforesaid for the amount(s) owing at any time(s) on the Obligations.

II. Furthermore, the undersigned agrees: (a) that, in event of any new or additional certificate(s) of stock being issued (as stock dividends or otherwise) relative to any stock held by the Lender at the time as security hereunder, such certificate(s) shall be deemed an increment to the stock so held and under pledge to the Lender and that, therefore, such certificate(s) will--to the extent received by or placed under the control of the undersigned--be held or controlled in trust for the Lender and will be promptly delivered to the Lender (in form for transfer) to be held hereunder; (b) that the Lender shall be under no duty with respect to any property held relative hereto at any time(s) except to account therefor in due course pursuant to the terms and provisions hereof, and (c) that the Lender may, in its discretion and in the absence of other express instruction in writing, apply any amount(s), which may be paid to and/or received or held by it relative hereto at any time(s), to the payment or reduction, either in whole or in part, of the principal and/or interest (as the Lender may elect) then owing on all or any of the Obligations.

III. In event of the happening of any one or more of the following, to wit: (a) the non-payment of any of the Obligations; (b) the death of the undersigned; (c) any petition in bankruptcy being

filed by or against the undersigned or any endorser or guarantor of this note, or any proceedings in bankruptcy, or under any Acts of Congress relating to the relief of debtors, being commenced for the relief or readjustment of any indebtedness of the undersigned or any endorser or guarantor of this note, either through reorganization, composition, extension or otherwise; (d) the making by the undersigned or any endorser or guarantor of this note of an assignment for the benefit of creditors or the taking advantage by any of the same of any insolvency law; (e) the appointment of a receiver of any property of the undersigned or any endorser or guarantor of this note; (f) the attachment or distraint of any funds or other property of the undersigned which may be in, or come into, the possession or control of the Lender or of the same becoming subject at any time to any mandatory order of court or other legal process--then, or at any time after the happening of any such event, this note and/or any note(s) or other obligation(s) which may be taken in renewal or extension of all or any part of the indebtedness evidenced thereby, shall immediately become due and payable, without demand or notice, and likewise upon the happening of any such event, or at any time thereafter, any or all of the other Obligations then existing shall, at the option of the Lender, become due and payable forthwith, without demand upon or notice to the undersigned. Furthermore, in any such event, full power and authority are hereby given the Lender to sell, assign and deliver the whole, or any part(s) thereof, of the property hereinbefore pledged to it or at public or private sale, at the option of the Lender, either for cash or on credit or for future delivery, without assumption of any credit risk, and without either demand, advertisement or notice of any kind, all of which are hereby waived, and no delay on the part of the Lender in exercising any power of sale or any other rights or options hereunder, and no notice or demand, which may be given to or made upon the undersigned by the Lender with respect to any power of sale or other right or option hereunder, shall constitute a waiver thereof, or limit or impair the right of the Lender to take any action or to exercise any power of sale or any other rights hereunder, without notice or demand, or prejudice the rights of the Lender as against the undersigned in any respect. At any sale hereunder, the Lender may itself purchase the whole or any part of the property sold, free from any right of redemption on the part of the undersigned, all such rights being also hereby waived and released. In event of any sale or other disposition of any of the property aforesaid, after deducting all costs or expenses of every kind for care, safekeeping, collection, sale, delivery or otherwise, the Lender shall, after applying the residue of the proceeds of the sale, or other disposition thereof, as hereinabove authorized and after making proper allowance for interest on Obligations not then due, return any overplus to the undersigned, all without prejudice to the rights of the Lender as against the undersigned with respect to any and all amounts which may then be or remain unpaid on any Obligations.

IV. The word "property" as used herein includes goods and merchandise, as well as any and all documents relative thereto; also, funds, securities, choses in action and any and all other forms of property, whether real, personal or mixed, and any right, title or interest of the undersigned therein or thereto.

V. The Lender is hereby authorized, at its option and without any obligation to do so, to transfer to or register in its name, street name, or in the name of nominee(s) all or any part of the property referred to hereinabove, and to do so before or after the maturity of any of the Obligations, and with or without notice to the undersigned.

VI. The Lender may transfer this note and deliver to the transferee(s) all or any of the property then held by it as security hereunder, and the transferee(s) shall thereupon become vested with all the powers and rights herein given to the Lender with respect thereto; and the Lender shall thereafter be forever relieved and fully discharged from any liability or responsibility in the matter, but the Lender shall retain all rights and powers hereby given with respect to property not so transferred.

VII. The undersigned hereby waives presentment for payment, demand, notice of dishonor and protest of this note and further agrees that this note shall be deemed to have been made under and shall be governed by the laws of the State of New York in all respects, including matters of construction, validity and performance, and that none of its terms or provisions may be waived, altered, modified or amended except as the Lender may consent thereto in writing duly signed for and on its behalf.

(Edward M. Gilbert)

INTEREST BEARING PROMISSORY NOTE

$ 247 000

New York, New York
DEC 4, 1962

ON DEMAND, FOR VALUE RECEIVED, the undersigned promises to pay to the order of E. L. BRUCE CO. (INCORPORATED), a New York corporation (hereinafter called the "Lender"), at its office at 660 Madison Avenue, New York, New York, the sum of TWO HUNDRED FORTY SEVEN THOUSAND DOLLARS, with interest thereon, from the date hereof to and including the day when this note becomes payable, at the rate of six per cent per annum.

I. As collateral security for the payment of (i) the indebtedness evidenced hereby or by any note(s) which may be given in renewal or extension of all or any part of that indebtedness, and (ii) any and all other obligations and/or liabilities, direct or contingent, of the undersigned to the Lender, due or to become due, whether now existing or hereafter arising, (the indebtedness evidenced hereby and any and all such other obligations and liabilities being hereinafter referred to as the "Obligations"), the undersigned hereby pledges tothe Lender any and all of his property now or at any time(s) hereafter in the possession or control of the Lender and hereby gives the Lender a lien upon all the property as aforesaid for the amount(s) owing at any time(s) on the Obligations.

II. Furthermore, the undersigned agrees: (a) that, in event of any new or additional certificate(s) of stock being issued (as stock dividends or otherwise) relative to any stock held by the Lender at the time as security hereunder, such certificate(s) shall be deemed an increment to the stock so held and under pledge to the Lender and that, therefore, such certificate(s) will--to the extent received by or placed under the control of the undersigned--be held or controlled in trust for the Lender and will be promptly delivered to the Lender (in form for transfer) to be held hereunder; (b) that the Lender shall be under no duty with respect to any property held relative hereto at any time(s) except to account therefor in due course pursuant to the terms and provisions hereof, and (c) that the Lender may, in its discretion and in the absence of other express instruction in writing, apply any amount(s), which may be paid to and/or received or held by it relative hereto at any time(s), to the payment or reduction, either in whole or in part, of the principal and/or interest (as the Lender may elect) then owing on all or any of the Obligations.

III. In event of the happening of any one or more of the following, to wit: (a) the non-payment of any of the Obligations; (b) the death of the undersigned; (c) any petition in bankruptcy being

filed by or against the undersigned or any endorser or guarantor of this note, or any proceedings in bankruptcy, or under any Acts of Congress relating to the relief of debtors, being commenced for the relief or readjustment of any indebtedness of the undersigned or any endorser or guarantor of this note, either through reorganization, composition, extension or otherwise; (d) the making by the undersigned or any endorser or guarantor of this note of an assignment for the benefit of creditors or the taking advantage by any of the same of any insolvency law; (e) the appointment of a receiver of any property of the undersigned or any endorser or guarantor of this note; (f) the attachment or distraint of any funds or other property of the undersigned which may be in, or come into, the possession or control of the Lender or of the same becoming subject at any time to any mandatory order of court or other legal process--then, or at any time after the happening of any such event, this note and/or any note(s) or other obligation(s) which may be taken in renewal or extension of all or any part of the indebtedness evidenced thereby, shall immediately become due and payable, without demand or notice, and likewise upon the happening of any such event, or at any time thereafter, any or all of the other Obligations then existing shall, at the option of the Lender, become due and payable forthwith, without demand upon or notice to the undersigned. Furthermore, in any such event, full power and authority are hereby given the Lender to sell, assign and deliver the whole, or any part(s) thereof, of the property hereinbefore pledged to it or at public or private sale, at the option of the Lender, either for cash or on credit or for future delivery, without assumption of any credit risk, and without either demand, advertisement or notice of any kind, all of which are hereby waived, and no delay on the part of the Lender in exercising any power of sale or any other rights or options hereunder, and no notice or demand, which may be given to or made upon the undersigned by the Lender with respect to any power of sale or other right or option hereunder, shall constitute a waiver thereof, or limit or impair the right of the Lender to take any action or to exercise any power of sale or any other rights hereunder, without notice or demand, or prejudice the rights of the Lender as against the undersigned in any respect. At any sale hereunder, the Lender may itself purchase the whole or any part of the property sold, free from any right of redemption on the part of the undersigned, all such rights being also hereby waived and released. In event of any sale or other disposition of any of the property aforesaid, after deducting all costs or expenses of every kind for care, safekeeping, collection, sale, delivery or otherwise, the Lender shall, after applying the residue of the proceeds of the sale, or other disposition thereof, as hereinabove authorized and after making proper allowance for interest on Obligations not then due, return any overplus to the undersigned, all without prejudice to the rights of the Lender as against the undersigned with respect to any and all amounts which may then be or remain unpaid on any Obligations.

IV. The word "property" as used herein includes goods and merchandise, as well as any and all documents relative thereto; also, funds, securities, choses in action and any and all other forms of property, whether real, personal or mixed, and any right, title or interest of the undersigned therein or thereto.

V. The Lender is hereby authorized, at its option and without any obligation to do so, to transfer to or register in its name, street name, or in the name of nominee(s) all or any part of the property referred to hereinabove, and to do so before or after the maturity of any of the Obligations, and with or without notice to the undersigned.

VI. The Lender may transfer this note and deliver to the transferee(s) all or any of the property then held by it as security hereunder, and the transferee(s) shall thereupon become vested with all the powers and rights herein given to the Lender with respect thereto; and the Lender shall thereafter be forever relieved and fully discharged from any liability or responsibility in the matter, but the Lender shall retain all rights and powers hereby given with respect to property not so transferred.

VII. The undersigned hereby waives presentment for payment, demand, notice of dishonor and protest of this note and further agrees that this note shall be deemed to have been made under and shall be governed by the laws of the State of New York in all respects, including matters of construction, validity and performance, and that none of its terms or provisions may be waived, altered, modified or amended except as the Lender may consent thereto in writing duly signed for and on its behalf.

(Edward M. Gilbert)

BEST COPY AVAILABLE

EXHIBIT # 9-I

St. No. 6426-72

ASSIGNMENT

KNOW ALL MEN that the undersigned, EDWARD M. GILBERT, with a present business address at 660 Madison Avenue, New York, New York, (hereinafter called the "Assignor") desires that E. L. BRUCE CO. (INCORPORATED), a New York corporation, (hereinafter called the "Assignee") shall grant the Assignor one or more loans, advances and/or extensions of credit, now existing or hereafter made and/or extended by the Assignee, upon the security of the property set forth in the annexed Schedule.

NOW, THEREFORE, the Assignor, hereby acknowledging good and sufficient consideration and as security for the prompt payment of the aforesaid loan(s), advance(s) and/or extension(s) of credit, together with such interest as may become payable thereon, hereby assigns, transfers and sets over unto the Assignee, all of the Assignor's right, title and interest in and to such property and in and to any and all moneys now or hereafter payable to the Assignor on account thereof.

The Assignor hereby gives and grants unto the Assignee full power and authority, for the Assignee's own use and benefit but at the cost and expense of the Assignor, to ask, demand, collect, receive, compound and give acquittance for any of the property hereby assigned and/or any and all moneys now or hereafter due or owing with regard to the property hereby assigned, and in the name of the Assignor or otherwise, to make and enforce any and all claims and demands thereon or with respect thereto and to prosecute and/or withdraw any and all suits or proceedings at law or in equity therefor or in connection therewith, it being understood that the Assignee shall be under no duty or obligation to exercise all or any of such powers and authority. The Assignor hereby agrees to indemnify the Assignee for and on account of any expenses which may be incurred by the Assignee by reason of, or in reference to, any and all such claims, demands, suits or proceedings as aforesaid.

The Assignor agrees upon request to implement this Assignment by executing and delivering whatever instrument(s) counsel for the Assignee may deem essential or desirable whereby to enable the Assignee to realize the rights and property hereby assigned.

IN WITNESS WHEREOF, the Assignor has duly executed this Assignment this 24th day of May, 1962.

Edward M. Gilbert

(Edward M. Gilbert)

Exhibit 9-I

All other property and assets of the undersigned, real, personal or mixed, tangible or intangible, of every character whatsoever and wheresoever situated.

Edward M. Gilbert

(Edward M. Gilbert)

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On the 8th day of June, 1962, before me personally came EDWARD M. GILBERT, to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that he executed the same.

Marie C. O'Connor
Notary Public

MARIE C. O'CONNOR
Notary Public State of New York
No. 24-2936800 Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1963

SCHEDULE

Cash in banks

334,991 shares of Common Stock of E. L. Bruce Co. (Incorporated)

$2,000,000 principal amount Convertible Debentures of E. L. Bruce Co. (Incorporated)

149,000 shares of Common Stock of The Celotex Company

300 shares of stock of West Indies & Carribean Corp.

Investment in Canadian Oil Venture

Investment in Data Sensors

Investment in Solvere, Inc.

Real Estate:

House and land known as Villa del Mare, Roquebrune, Cap Martin (A.M.), France

Property at 46 East 70 Street, New York City

Land on Route 13, Bucks County, Pennsylvania

Participation in land:

Sutherlin Group

Babylon Venture

Fort Tryon

Paintings (per attached list)

Stamp Collection

Investment and Participations with:

UFITEC

FICOMER

DUTCH AMERICAN

EDWARD M. GILBERT
Paintings
~~Impressionists~~

Painter	Title	Insured Value
W. Homer	Watercolor	$15,000
Bouche	Venus attended by young maidens) Psyche & Cupid)	95,000
Monet	Flowers	75,000
Hubert	Moonlit Landscape	55,000
A. Canal	Doges Palace on Grand Canal Venice	55,000
~~GAUGUIN~~ Degas	Portrait of a young woman	92,000
Bouche	Portrait of Mrs. E. M. Gilbert	3,000
Sidley	Village street scene	35,000
Boudin	Port of Rue Speerne - Rotterdam	35,000
Lawrence	Figure of a standing man	2,750
Lawrencin	Self portrait 1824	4,500
Hals	A Game of Checker	4,500
	Others under $1,000	5,000
		$476,750

110-A
EXHIBIT # 10-J
Dkt No. 6426-72

ASSIGNMENT

KNOW ALL MEN that the undersigned, EDWARD M. GILBERT, of 517 Fifth Avenue, New York, New York (hereinafter called the "Assignor") hereby acknowledging an indebtedness to the E. L. BRUCE CO. (INCORPORATED), a New York corporation, (hereinafter called the "Assignee") in the sum of $1,953,000 with interest thereon from the 6th day of June 1962, at the rate of 6% per annum hereby assigns, transfers and sets over unto the Assignee, all of the Assignor's right, title and interest in and to the property set forth in the annexed Schedule and in and to any and all moneys now or hereafter payable to the Assignor on account thereof.

The Assignor hereby gives and grants unto the Assignee full power and authority, for the Assignee's own use and benefit but at the cost and expense of the Assignor, to ask, demand, collect, receive, compound and give acquittance for any of the property hereby assigned and/or any and all moneys now or hereafter due or owing with regard to the property hereby assigned, and in the name of the Assignor or otherwise, to make and enforce any and all claims and demands thereon or with respect thereto and to prosecute and/or withdraw any and all suits or proceedings at law or in equity therefor or in connection therewith, it being understood that the Assignee shall be under no duty or obligation to exercise all or any of such powers and authority. The Assignor hereby agrees to indemnify the Assignee for and on account of any expenses which may be incurred by the Assignee by reason of, or in reference to, any and all such claims, demands, suits or proceedings as aforesaid.

The Assignor agrees upon request to implement this Assignment by executing and delivering whatever instrument(s) counsel for the Assignee may deem essential or desirable whereby to enable the Assignee to realize the rights and property hereby assigned.

IN WITNESS WHEREOF, the Assignor has duly executed this Assignment this 5th day of Nov. 1962

Edward M. Gilbert

Exhibit # 10-J

SCHEDULE OF PERSONAL PROPERTY ANNEXED TO ASSIGNMENT DATED DAY OF BY EDWARD M. GILBERT TO THE E. L. BRUCE CO. (INCORPORATED):

Cash in banks

334,991 shares of Common Stock of E. L. Bruce Co. (Incorporated)

$2,000,000 principal amount Convertible Debentures of E. L. Bruce Co. (Incorporated)

149,000 shares of Common Stock of The Calotex Company

300 shares of stock of West Indies & Carribean Corp.

Investment in Canadian Oil Venture

Investment in Data Sensors

Investment in Solvere, Inc.

Paintings (per attached list)

Stamp Collection

Investment and Participations with:

UFITEC

FICOMER

DUTCH AMERICAN

All other personal property tangible or intangible of every character whatsoever and wheresoever situated.

Edward M. Gilbert

SCHEDULE OF PERSONAL PROPERTY TO
ASSIGNMENT DATED DAY OF
BY EDWARD M. GILBERT TO THE E. L.
BRUCE CO. (INCORPORATED)

Paintings

Painter	Title	Insured Value
W. Homer	Watercolor	$15,000
Bouche	Venus attended by young maidens Psyche & Cupid	95,000
Monet	Flowers	75,000
Hubert	Idealist Landscape	55,000
A. Canal	Doges Palace on Grand Canal Venice	55,000
Fragonard	Portrait of a young woman	92,000
Bouche	Portrait of Mrs. E.M. Gilbert	3,000
Sisley	Village street scene	35,000
Boudin	You of Het Spaarme - Rotterdam	35,000
Lauerit	Figure of a standing man	2,750
Laurencin	Self portrait 1914	4,500
Hals	A Game of Checker	4,500
	Others under $1,000	5,000
		$476,750

Edward M. Gilbert

No. P5114-62

W.7.62
3.54 PM

113-A

EDWARD M. GILBERT

to

E. L. BRUCE CO. (INCORPORATED)

CHATTEL MORTGAGE

Sum secured, $1,953,000 with interest at 6% per annum from the 6th day of June, 1962.

CHATTELS

The property conveyed by this instrument is located at 817 Fifth Avenue and 1166 Second Avenue in the Borough of Manhattan and elsewhere.

Mortgagor resides at 50 East 77th Street, Borough of Manhattan, County and State of New York

Mortgagee has its office at 660 Madison Avenue, New York 21, N.Y.

WEBSTER SHEFFIELD FLEISCHMANN HITCHCOCK & CHRYSTIE

One Rockefeller Plaza New York 20, N.Y.

F. Jurisdictional file

114-A EX. 12-L
Dkt No. 6426-TC

JUN 25 [illegible] AU:R:Sec.6851

Mr. Edward Gilbert and
Mrs. Rhoda Gilbert
817 5th Avenue
New York, New York

Dear Mr. & Mrs. Gilbert:

You are hereby notified that I, the undersigned District Director of Internal Revenue find that you have designed to conceal your property in order to hinder and prevent collection of income taxes justly due and to become due for the period January 1,1962 to June 15,1962.

In accordance with Section 6851 of the Internal Revenue Code and Regulations thereunder, you therefore are notified that pursuant to authority granted to me I hereby declare the taxable year begun January 1,1962 and ended June 15,1962, immediately terminated and the income taxes to become due from you for such taxable period immediately due and payable.

You are further notifed that an assessment has been made against you for the income taxes due from you for such taxable period in the following amount:

Taxable Year	Tax
January 1,1962 to June 15,1962	$1,723,776.00

and that the aforesaid amount of income tax is hereby declared immediately due and payable by you.

You are requested, therefore, upon presentation of this notice to you together with such other or further statement of income taxes as may be presented to immediately pay the full amount of the aforesaid income taxes.

Very truly yours,

District Director

Ex. 12-L

13-M

CERTIFICATE OF ASSESSMENTS AND PAYMENTS

NAME OF TAXPAYER	ADDRESS (Number, street, city) and State)	EIN OR SSN
Edward Hilbert Edward M. Hilbert	525 Park Ave., New York, N.Y. 1002 (817 5th Ave., New York, N.Y.)	079-18-1994

DATE (a)	EXPLANATION OF TRANSACTIONS (b)	ASSESSMENT (ABATEMENT) (c)	CREDIT (CREDIT REVERSAL) (d)	BALANCE (e)	DLN OR ACCOUNT NO. (f)	23C DATE (g)	PERIOD ENDING (h)
	Encl Return				63AE 300		Form 1040 6712
06-22-67	Audit Tax Deficiency	4,723,776.00					Form 1040 6712
07-06-73	Payment		42,916.39		67D149564	06-22-67	
07-13-73	Payment		8,625.47	1,672,234.14			
03-11-71	Collection Action Suspended						
06-22-67	First Notice						

I certify that the foregoing transcript of the account of the taxpayer named above in respect to the taxes specified is a true and complete transcript for the period stated, and all assessments, penalties, interest, abatements, credits, and refunds relating thereto as disclosed by the records of this office as of the date of this certification are shown therein.

SIGNATURE OF DIRECTOR	LOCATION	DATE
M.S.	Brookhaven Service Center 1040 Waverly Avenue Holtsville, N.Y. 11742	02-27-75

U.S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

GPO 874-538

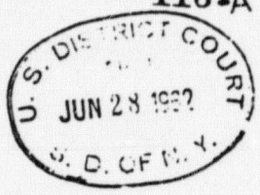
FORM 4340 (9-67)

13-M
EX. 13-M
BRANCH NO. 6426-72

EY 14-N
DRA No. 6426-72

PHM:ac

116-A



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA :

-v- :

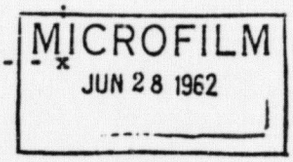
EDWARD M. GILBERT, :

Defendant. :

- x

INDICTMENT

62 Cr. 664



The Grand Jury charges:

1. During the months of May and June, 1962, in the Southern District of New York, EDWARD M. GILBERT, the defendant herein, devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises from E. L. Bruce Co. (Incorporated)(hereinafter referred to as "Bruce").

2. It was a part of said scheme and artifice that the defendant EDWARD M. GILBERT, being president, a director and a controlling shareholder of Bruce, without authorization of Bruce and for his own use, benefit and unjust enrichment, would cause moneys and funds of Bruce aggregating $1,953,000 to be transferred to Rhodes Enterprises, Inc. (hereinafter referred to as "Rhodes") and Empire Hardwood Flooring Corporation (hereinafter referred to as "Empire"), corporations under his sole and complete control.

3. It was a further part of said scheme and artifice that the defendant EDWARD M. GILBERT would cause the aforesaid moneys and funds of Bruce to be

14-N

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transferred to the accounts of Financiere Du Mont-Blanc, Geneva, Switzerland; Societe Anonyme Financiere Ficomer, Geneva, Switzerland; Ufitec, S.A., Zurich, Switzerland; Joseph Danon & Cie., Paris, France; Jerome International Corporation, New York, N. Y.; Dutch American Mercantile Company, New York, N. Y., and Jacques Sarlie, in satisfaction of obligations of the defendant EDWARD M. GILBERT, and Rhodes.

4. For the purpose of executing said scheme and artifice, on or about the 29th day of May, 1962, EDWARD M. GILBERT, the defendant herein, did unlawfully, wilfully and knowingly transmit and cause to be transmitted by means of wire and radio communication in interstate and foreign commerce, writings, signs, signals and sounds, to wit, a cable from Vanden, Broeck, Lieber & Company in New York, N. Y. to Financiere Du Mont-Blanc in Geneva, Switzerland.

[Title 18, United States Code, Sections 1343 and 2.]

COUNT 2

The Grand Jury further charges:

On or about the 1st day of June, 1962, in the Southern District of New York, EDWARD M. GILBERT, the defendant herein, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, unlawfully, wilfully and knowingly, and for the purpose of executing said scheme and artifice to defraud and attempting so to do, did place and cause to be placed in a post office and

authorized depository for mail matter, and did take and receive therefrom, and did knowingly cause to be delivered by mail according to the direction thereon, certain matter, to be sent and delivered by the Post Office Department, to wit, a check of Rhodes Enterprises, Inc. payable to, and addressed to Joseph Danon & Co., 20, Rue de la Baume, Paris, France.

2. The allegations contained in paragraphs 2 and 3 of Count 1 of this indictment are repeated and realleged as though fully set forth herein, as constituting and describing the scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, which the defendant is alleged as having devised and intending to devise, in the immediately preceding paragraph.

[Title 18, United States Code, Sections 1341 and 2.]

COUNT THREE

The Grand Jury further charges:

On or about the 31st day of May, 1962, in the Southern District of New York, EDWARD M. GILBERT, the defendant herein, being president, a director and a controlling stockholder of E. L. Bruce Co. (Incorporated), unlawfully, wilfully and knowingly, in the offer and sale of a security, to wit, common stock of said E. L. Bruce Co. (Incorporated), by the use of means and instruments of transportation and communication in interstate commerce, and by the use of the mails, directly and indirectly, did engage in transactions, practices, and courses of business

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which operated and would operate as a fraud and deceit upon the purchasers of said security, in that, at the time of said offer and sale of said security, the defendant EDWARD M. GILBERT failed to disclose to the purchasers of said security that he had stolen, converted and taken by fraud $795,000 of the moneys and funds of said E. L. Bruce Co. (Incorporated).

[Title 15, United States Code, Sections 77q(a) and 77x.]

COUNT FOUR

The Grand Jury further charges:

On or about the 1st day of June, 1962, in the Southern District of New York, EDWARD M. GILBERT, the defendant herein, being president, a director and a controlling stockholder of E. L. Bruce Co. (Incorporated), unlawfully, wilfully and knowingly, in the offer and sale of a security, to wit, common stock of said E. L. Bruce Co. (Incorporated), by the use of means and instruments of transportation and communication in interstate commerce, and by the use of the mails, directly and indirectly, did engage in transactions, practices, and courses of business which operated and would operate as a fraud and deceit upon the purchasers of said security, in that, at the time of said offer and sale of said security, the defendant EDWARD M. GILBERT failed to disclose to the purchasers of said security that he had stolen, converted and taken by fraud $1,411,000 of the moneys and funds of said E. L. Bruce Co. (Incorporated).

[Title 15, United States Code, Sections 77q(a) and 77x.]

PHM:ac

COUNT FIVE

The Grand Jury further charges:

On or about the 1st day of June, 1962, in the Southern District of New York, EDWARD M. GILBERT, the defendant herein, unlawfully, wilfully and knowingly did transport and cause to be transported in foreign commerce, from the Southern District of New York to Paris, France, securities and monies of a value in excess of $5,000, to wit, Check No. 1050 of Rhodes Enterprises, Inc., dated June 1, 1962, in the amount of $50,000 payable to Joseph Danon & Co., knowing the same to have been stolen, converted and taken by fraud.

[Title 18, United States Code, Section 2314.]

COUNT SIX

The Grand Jury further charges:

On or about the 10th day of March, 1962, in the Southern District of New York, EDWARD M. GILBERT, the defendant herein, unlawfully, wilfully and knowingly, in a report and document required to be filed under Title 15, United States Code, Section 78p(a), and which was filed with the American Stock Exchange at New York, N. Y. and the Securities and Exchange Commission at Washington, D. C., namely, a Form 4 Statement of Changes in Beneficial Ownership of Securities, made and caused to be made therein a statement to the effect that he sold or otherwise disposed of 19,142 shares of the common stock of E. L. Bruce Co. (Incorporated) during the calendar month of February, 1962, which, as the defendant EDWARD M. GILBERT then and there well knew, was false and misleading with respect to a

material fact, in that said defendant sold or otherwise disposed of 25,142 shares of said stock during said calendar month.

[Title 15, United States Code, Section 78ff.]

COUNT SEVEN

The Grand Jury further charges:

1. From on or about the 1st day of June, 1962, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York, EDWARD M. GILBERT, the defendant herein, did unlawfully, wilfully and knowingly fail to file with the American Stock Exchange at New York, N. Y. and the Securities and Exchange Commission at Washington, D. C., a statement indicating the beneficial ownership of the defendant EDWARD M. GILBERT, in the common stock of E. L. Bruce Co. (Incorporated) at the close of the calendar month of May, 1962, and the changes in the beneficial ownership of the defendant EDWARD M. GILBERT in said common stock which occurred during said calendar month.

2. In and during the calendar month of May, 1962, the defendant EDWARD M. GILBERT was an officer and director of E. L. Bruce Co. (Incorporated), an issuer of an equity security, and was directly and indirectly the beneficial owner of more than 10 percentum of said equity security, namely, common stock of E.L. Bruce Co. (Incorporated), which equity security was not an exempted security within the meaning of Section 78c(a)(12), Title 15, United States Code, and which equity security was registered on a national securities exchange, namely, the American Stock

PHM:ac

Exchange, pursuant to the provisions of the Securities Exchange Act of 1934, as amended.

3. In and during the calendar month of May, 1962, there were changes in the beneficial ownership of the defendant EDWARD M. GILBERT, in the aforesaid equity security.

[Title 15, United States Code, Section 78p(a) and Section 78ff(a).]

COUNTS EIGHT THROUGH FIFTEEN

The Grand Jury further charges:

1. On or about the dates hereinafter set forth in Counts 8 through 15, in the Southern District of New York, EDWARD M. GILBERT, the defendant herein, unlawfully, wilfully and knowingly, directly and indirectly, made use of means and instruments of transportation and communication in interstate commerce, and of the mails, to sell a security, namely, common stock of E. L. Bruce Co. (Incorporated), in amounts hereinafter set forth in Counts 8 through 15, no registration as to said security being in effect with the Securities and Exchange Commission.

2. The allegations of the preceding paragraph are hereby realleged in Counts 8 through 15 of this indictment as though fully set forth therein.

COUNT	DATE	NUMBER OF SHARES
8	December 11, 1961	1500
9	December 18, 1961	1000
10	February 19, 1962	1600
11	March 7, 1962	500
12	March 8, 1962	500
13	April 6, 1962	900
14	May 4, 1962	700
15	June 1, 1962	100

[Title 15, United States Code, Sections 77(e)(a)(1) and 77x; Title 18, United States Code, Section 2.]

Foreman

ROBERT M. MORGENTHAU
United States Attorney

FRAUD BUREAU

Ex. 15-0
Exh. No.
6426-72.

COURT OF GENERAL SESSIONS
COUNTY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK :

-against-

EDWARD M. GILBERT,

Defendant.

THE GRAND JURY OF THE COUNTY OF NEW YORK, by this indictment, accuse the above-named defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about May 28, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from E. L. Bruce Co. (Incorporated) having an aggregate value of $60,000, to wit, a check dated May 28, 1962 drawn on the account of E. L. Bruce Co. (Incorporated) at the Franklin National Bank of Long Island, payable to Rhodes Enterprises, Inc.

SECOND COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about May 29, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and

EXHIBIT 15-0

to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from Empire Hardwood Flooring Corp. having an aggregate value of $55,000, to wit, a check dated May 29, 1962 drawn on the account of Empire Hardwood Flooring Corp. at the Trade Bank and Trust Company, payable to the order of Jerome International Corp.

THIRD COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about May 29, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from the Empire Hardwood Flooring Corp. having an aggregate value of $145,000, to wit, a check dated May 29, 1962 drawn on the account of Empire Hardwood Flooring Corp. at the Trade Bank and Trust Company, payable to the order of Rhodes Enterprises, Inc.

FOURTH COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about May 29, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and

BEST COPY AVAILABLE

to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from Empire Hardwood Flooring Corp. having an aggregate value of $200,000, to wit, a check dated May 29, 1962, drawn on the account of Empire Hardwood Flooring Corp. at the Trade Bank and Trust Company, payable to the order of Rhodes Enterprises, Inc.

FIFTH COUNT: ✓

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about May 29, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from E. L. Bruce Co. (Incorporated) having an aggregate value of $340,000, to wit, a check dated May 29, 1962, drawn on the account of E. L. Bruce Co. (Incorporated) at the Manufacturers Hanover Trust Company, payable to the order of Rhodes Enterprises, Inc.

SIXTH COUNT: ✓

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about June 1, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and

to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from E. L. Bruce Co. (Incorporated) having an aggregate value of $490,000, to wit, a check dated June 1, 1962 drawn on the account of E. L. Bruce Co. (Incorporated) at the Manufacturers Hanover Trust Company, payable to the order of Rhodes Enterprises, Inc.

SEVENTH COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about June 1, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from E. L. Bruce Co. (Incorporated) having an aggregate value of $120,000, to wit, a check dated June 1, 1962, drawn on the account of E. L. Bruce Co. (Incorporated) at the Manufacturers Hanover Trust Company, payable to the order of Rhodes Enterprises, Inc.

EIGHTH COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about June 5, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and

to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from E. L. Bruce Co. (Incorporated) having an aggregate value of $100,000, to wit, a check dated June 5, 1962, drawn on the account of E. L. Bruce Co. (Incorporated) at the Manufacturers Hanover Trust Company, payable to the order of Rhodes Enterprises, Inc.

NINTH COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about June 6, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from E. L. Bruce Co. (Incorporated) having an aggregate value of $160,000, to wit, a check dated June 6, 1962, drawn on the account of E. L. Bruce Co. (Incorporated) at the Manufacturers Hanover Trust Company, payable to the order of Rhodes Enterprises, Inc.

TENTH COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about June 6, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and

to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from E. L. Bruce Co. (Incorporated) having an aggregate value of $287,000, to wit, a check dated June 6, 1962, drawn on the account of E. L. Bruce Co. (Incorporated) at the Manufacturers Hanover Trust Company, payable to the order of Rhodes Enterprises, Inc.

ELEVENTH COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about May 29, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from E. L. Bruce Co. (Incorporated) having an aggregate value of $200,000, to wit, a check dated May 29, 1962, drawn on the account of E. L. Bruce Co. (Incorporated) at the Franklin National Bank of Long Island, payable to the order of Empire Hardwood Flooring Corp.

TWELFTH COUNT:

AND THE GRAND JURY AFORESAID, by this indictment, further accuse said defendant of the crime of GRAND LARCENY IN THE FIRST DEGREE, committed as follows:

Said defendant, in the County of New York, on or about May 29, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from E. L. Bruce Co. (Incorporated) having an aggregate value of $205,000, to wit, a check dated May 29, 1962, drawn on the account of E. L. Bruce Co. (Incorporated) at the Franklin National Bank of Long Island, payable to Empire Hardwood Flooring Corp.

FRANK S. HOGAN,
District Attorney.

Ex. 16-P
Dft. No. 6426-72

BY ENDORSEMENT THIS CHECK IS ACCEPTED IN FULL PAYMENT OF THE FOLLOWING ACCOUNT

DATE	AMOUNT

TOTAL OF INVOICES
LESS ... S DISC.
LESS TOTAL DEDUCTIONS
AMOUNT OF CHECK
IF INCORRECT PLEASE RETURN NO RECEIPT NECESSARY

E. L. BRUCE CO. (INCORPORATED)
600 MADISON AVENUE
NEW YORK 21, N. Y. May 14 19 64

NO. 256-

50-1126 / 214 A

PAY TO THE ORDER OF [illegible] $ 1000.00

Fifty Thousand and 00 DOLLARS

THE FRANKLIN NATIONAL BANK OF LONG ISLAND
FRANKLIN SQUARE, N. Y.

[signature]

[signature]

⑆0214⑆11261⑆ 23⑆02-529-1⑈

BY ENDORSEMENT THIS CHECK IS ACCEPTED IN FULL PAYMENT OF THE FOLLOWING ACCOUNT

DATE	AMOUNT

TOTAL OF INVOICES
LESS ... S DISC.
LESS TOTAL DEDUCTIONS
AMOUNT OF CHECK
IF INCORRECT PLEASE RETURN NO RECEIPT NECESSARY

E. L. BRUCE CO. (INCORPORATED)
600 MADISON AVENUE
NEW YORK 21, N. Y. May 14 19 64

NO. 257

50-1126 / 214 A

PAY TO THE ORDER OF [illegible] $

[illegible] DOLLARS

THE FRANKLIN NATIONAL BANK OF LONG ISLAND
FRANKLIN SQUARE, N. Y.

[signature]

[signature]

⑆0214⑆11261⑆ 23⑆02-529-1⑈

BY ENDORSEMENT THIS CHECK IS ACCEPTED IN FULL PAYMENT OF THE FOLLOWING ACCOUNT

DATE	AMOUNT

TOTAL OF INVOICES
LESS ... S DISC.
LESS TOTAL DEDUCTIONS
AMOUNT OF CHECK
IF INCORRECT PLEASE RETURN NO RECEIPT NECESSARY

E. L. BRUCE CO. (INCORPORATED)
600 MADISON AVENUE
NEW YORK 21, N. Y. May 14 19 64

NO. 258

50-1126 / 214 A

PAY TO THE ORDER OF [illegible] $

[illegible] DOLLARS

THE FRANKLIN NATIONAL BANK OF LONG ISLAND
FRANKLIN SQUARE, N. Y.

[signature]

[signature]

⑆0214⑆11261⑆ 23⑆02-529-1⑈

16-P

131-A

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

E. L. BRUCE CO. (INCORPORATED)
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 2146

May 19 19 6v 1-30/210 129

PAY TO THE ORDER OF Linden Enterprises Inc $36.72

EXACTLY [illegible] AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
BROADWAY AT 41st STREET, NEW YORK, N. Y.

E. L. BRUCE CO. (INCORPORATED)

AUTHORIZED SIGNATURES

:0210=00301:

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

E. L. BRUCE CO. (INCORPORATED)
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 2151

June 1 19 6v 1-30/210 129

PAY TO THE ORDER OF Linden Enterprises Inc $49.00

EXACTLY [illegible] AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
BROADWAY AT 41st STREET, NEW YORK, N. Y.

E. L. BRUCE CO. (INCORPORATED)

AUTHORIZED SIGNATURES

:0210=00301:

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

E. L. BRUCE CO. (INCORPORATED)
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 2163

June 1 19 6v 1-30/210 129

PAY TO THE ORDER OF Linden Enterprises Inc $12.00

EXACTLY [illegible] AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
BROADWAY AT 41st STREET, NEW YORK, N. Y.

E. L. BRUCE CO. (INCORPORATED)

AUTHORIZED SIGNATURES

:0210=00301:

132-A

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

E. L. BRUCE CO. (INCORPORATED)
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 2168

June 5 19 6v 1-30/210 129

PAY TO THE ORDER OF Rhodes Enterprises Inc $ 100.00 xx

EXACTLY 100 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
BROADWAY AT 41st STREET, NEW YORK, N. Y.

E. L. BRUCE CO. (INCORPORATED)

AUTHORIZED SIGNATURES

:0210-00301:

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

E. L. BRUCE CO. (INCORPORATED)
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 2174

June 6 19 6v 1-30/210 129

PAY TO THE ORDER OF Rhodes Enterprises Inc $ 28.00 xx

EXACTLY 28 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
BROADWAY AT 41st STREET, NEW YORK, N. Y.

E. L. BRUCE CO. (INCORPORATED)

AUTHORIZED SIGNATURES

:0210-00301:

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

E. L. BRUCE CO. (INCORPORATED)
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 2170

June 6 19 6v 1-30/210 129

PAY TO THE ORDER OF Rhodes Enterprises Inc $ 160.00 xx

EXACTLY 160 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
BROADWAY AT 41st STREET, NEW YORK, N. Y.

E. L. BRUCE CO. (INCORPORATED)

AUTHORIZED SIGNATURES

:0210-00301:

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133-A Ex. 17-Q
Dkt. #6426-72

THIS CHECK IS ISSUED IN PAYMENT OF ITEMS AS PER STATEMENT FOLLOWING. ENDORSEMENT OF PAYEE WILL CONSTITUTE A RECEIPT IN FULL

DATE	INVOICES	AMOUNT
	TOTAL	

No. 614

1-662
260

PAY TO THE ORDER OF NEW YORK. May 25 19

Liberty Enterprises Corp

Dollars

TO TRADE BANK AND TRUST COMPANY
SEVENTH AVENUE AND THIRTY EIGHTH STREET
NEW YORK, N.Y.

TRADE BANK & TRUST CO.

Empire Handbag Fashions

THIS CHECK IS ISSUED IN PAYMENT OF ITEMS AS PER STATEMENT FOLLOWING. ENDORSEMENT OF PAYEE WILL CONSTITUTE A RECEIPT IN FULL

DATE	INVOICES	AMOUNT
	TOTAL	

A

No. 615

1-662
260

PAY TO THE ORDER OF NEW YORK. 5/25 19

Liberty Enterprises Corp

One hundred fifty 3.1 1962 Dollars

TO TRADE BANK AND TRUST COMPANY
SEVENTH AVENUE AND THIRTY-EIGHTH STREET
NEW YORK, N.Y.

TRADE BANK & TRUST CO.

Empire Handbag Fashions

THIS CHECK IS ISSUED IN PAYMENT OF ITEMS AS PER STATEMENT FOLLOWING. ENDORSEMENT OF PAYEE WILL CONSTITUTE A RECEIPT IN FULL

DATE	INVOICES	AMOUNT
	TOTAL	

A

No. 616

1-662
260

PAY TO THE ORDER OF NEW YORK. 5/25 19

Liberty Enterprises Corp

Two hundred JUN 1 1962 Dollars

TO TRADE BANK AND TRUST COMPANY
SEVENTH AVENUE AND THIRTY EIGHTH STREET
NEW YORK, N.Y.

TRADE BANK & TRUST CO.

Empire Handbag Fashions

17-Q

134-A

THIS CHECK IS ISSUED IN PAYMENT OF ITEMS AS PER STATEMENT FOLLOWING. ENDORSEMENT OF PAYEE WILL CONSTITUTE A RECEIPT IN FULL

DATE		INVOICES	AMOUNT	
		TOTAL		

EMPIRE HARDWOOD FLOORING CORP.
660 Madison Avenue
New York 21, N. Y.

A

No. [illegible]

1-662
260

PAY TO THE ORDER OF [illegible] NEW YORK. [illegible] 19[illegible]

E. L. [illegible] CO. (UNINCORPORATED) $[illegible]

[illegible] CTS DOLLARS

TRADE BANK & TRUST CO.

Empire Hardwood Flooring Corp.

[illegible]

TO TRADE BANK AND TRUST COMPANY
SEVENTH AVENUE AND THIRTY-EIGHTH STREET
NEW YORK, N.Y.

135-A Ex. 18-R

Dkt. #6426-72

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1034

May 28 19 6v 1-30/210 129

PAY TO THE ORDER OF Dutch American Mercantile Corp. $ 100,000 00

EXACTLY ONE HUNDRED THOUSAND AND 00 CTS DOLLARS

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

NO. 1034 CERTIFIED PAYABLE ONLY SINCE ISSUE PROVIDED BY Manufacturers Hanover Trust Co. DO NOT

⑆0210⑆0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1035

May 29 19 6v 1-30/210 129

PAY TO THE ORDER OF Jerome Leslie $ 100,000 00

EXACTLY ONE HUNDRED THOUSAND AND 00 CTS DOLLARS

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

⑆0210⑆0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1038

May 29 19 6v 1-30/210

PAY TO THE ORDER OF Atty. Gen. of the State of New York, Trustee $ 100,000 00

EXACTLY ONE HUNDRED THOUSAND AND 00 CTS DOLLARS

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

⑆0210⑆0030⑆0129 0⑈16361⑈

18-R

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT
TOTAL OF INVOICES		
LESS		
AMOUNT OF CHECK		

RHODES ENTERPRISES, INC. 136-A
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1040

May 29 19 6V 1-30/210 129

PAY TO THE ORDER OF Chemical Bank New York Trust Co. $200.00

EXACTLY E2327 $200.00 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT
TOTAL OF INVOICES		
LESS		
AMOUNT OF CHECK		

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1041

May 29 19 6V 1-30/210 129

PAY TO THE ORDER OF Francis Fair $ 6600

EXACTLY E2327 $6600 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT
TOTAL OF INVOICES		
LESS		
AMOUNT OF CHECK		

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1042

May 29 19 6V 1-30/210 129

PAY TO THE ORDER OF Francis Adolph $ 1400

EXACTLY E2327 $1400 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

137-A

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
Mf Mac Ltee.			
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1042

May 29 19 6v 1-30 / 210 129

PAY TO THE ORDER OF Morden Brick Tile & Co $ 16,500 00

EXACTLY E2327 SIXTEEN THOUSAND FIVE HUNDRED AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

John J. Gregan AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1045

May 31 19 6v 1-30 / 210 129

PAY TO THE ORDER OF Queen's Quay $ 6700 00

EXACTLY E2327 SIX THOUSAND SEVEN HUNDRED AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

John J. Gregan AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1044

May 31 19 6v 1-30 / 210 129

PAY TO THE ORDER OF Queen's Tile $ 100 000 00

EXACTLY E2327 ONE HUNDRED THOUSAND AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

138-A No. 1047

Jan 1 19 6v 1-30/210 129

PAY TO THE ORDER OF Dutch American Mercantile Corp c/o Trustee $ [illegible]

EXACTLY [illegible] AND [illegible] CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

[signature] AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
		[illegible]	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1048

Jan 1 19 6v 1-30/210 129

PAY TO THE ORDER OF Dutch American Mercantile Corp $ 50000 [illegible]

EXACTLY [illegible] AND [illegible] CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

[signature] AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1049

Jan 1 19 6v 1-30/210 129

PAY TO THE ORDER OF Dutch American Mercantile Corp $ 50000 [illegible]

EXACTLY [illegible] AND [illegible] CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

[signature] AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

139-A

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING			
DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1051

June 1 19 6v 1-30 / 210 129

PAY TO THE ORDER OF Dutch American Mercantile Corp $ 100,000 00

EXACTLY E232 $100000 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

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THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING			
DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1052

June 1 19 6v 1-30 / 210 129

PAY TO THE ORDER OF Dutch American Mercantile Corp $ 50,000 00

EXACTLY E232 $50000 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

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THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING			
DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1053

June 1 19 6v 1-30 / 210 129

PAY TO THE ORDER OF Dutch American Mercantile Corp $ 50,000 00

EXACTLY E232 $50000 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

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110-A

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1054

June 1 19 6v 1-30/210 125

PAY TO THE ORDER OF Jerome Forte

EXACTLY $100.00 AND 00 CTS $ 100.00 6v

DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

⑈0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1055

June 1 19 6v 1-30/210 129

PAY TO THE ORDER OF Edward M. Gelbart

EXACTLY $50.00 AND 00 CTS $ 50.00 6v

DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

⑈0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
6 Oct			
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1056

June 1 19 6v 1-30/210 129

PAY TO THE ORDER OF Hallandale Park Inc

EXACTLY $100.00 AND 00 CTS $ 100.00 6v

DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

⑈0210⑈0030⑆0129 0⑈16361⑈

141-A

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1057

June 1 19 62 1-30/210 129

PAY TO THE ORDER OF Irwin Fox $ 24,700 00/xx

EXACTLY E2327 [illegible] AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

[signature] AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1061

June 4 19 62 1-30/210 129

PAY TO THE ORDER OF Dutch American Mercantile Corp A/C Income $ 200,000 00/xx

EXACTLY E2327 [illegible] AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

[signature] AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1063

June 5 19 62 1-30/210 129

PAY TO THE ORDER OF Dutch American Mercantile Corp for A/C Income $ 100,000 00/xx

EXACTLY E2327 [illegible] AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

[signature] AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT
TOTAL OF INVOICES		
LESS		
AMOUNT OF CHECK		

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1064

June 6 19 6V 1-30 / 210 129

PAY TO THE ORDER OF Peter's American Mercantile Corp $ 100,000 00

EXACTLY 2327 ONE HUNDRED THOUSAND AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

John J. Grogan AUTHORIZED SIGNATURE

⑆0210⑆0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT
TOTAL OF INVOICES		
LESS		
AMOUNT OF CHECK		

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1065

June 6 19 6V 1-30 / 210 129

PAY TO THE ORDER OF Irwin Falsey $ 40 100 00

Forty Thousand five hundred and 00/100 DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

John J. Grogan AUTHORIZED SIGNATURE

⑆0210⑆0030⑆0129 0⑈16361⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT
TOTAL OF INVOICES		
LESS		
AMOUNT OF CHECK		

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1066

June 7 19 6V 1-30 / 210 129

PAY TO THE ORDER OF Eastern Enterprises Inc $ 27,000 00

EXACTLY 2327 TWENTY SEVEN THOUSAND AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

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THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1067

June 7 19 6V 1-30/210 129

PAY TO THE ORDER OF Chris Enterprises Inc $ 6000 00

EXACTLY 6000 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

John J. Rhodes AUTHORIZED SIGNATURE

⑆0210⑈0030⑆0129 0⑈16364⑈

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE		AMOUNT	
TOTAL OF INVOICES			
LESS			
AMOUNT OF CHECK			

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1068

June 7 19 6V 1-30/210 129

PAY TO THE ORDER OF Henry J Schroder Banking Corp $ 200,000 00

EXACTLY 200000 AND 00 CTS DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

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144-A

THIS CHECK IS IN FULL PAYMENT OF THE FOLLOWING

DATE	AMOUNT
TOTAL OF INVOICES	
LESS	
AMOUNT OF CHECK	

RHODES ENTERPRISES, INC.
660 MADISON AVENUE NEW YORK 21, N. Y.

No. 1050

June 1 19 6v 1-30 129 / 210

PAY TO THE ORDER OF Joseph Dixon v Co $ Vooo.00

Fifty - Thousand & No/100 DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
41st STREET AT BROADWAY, NEW YORK, N. Y.

RHODES ENTERPRISES, INC.

AUTHORIZED SIGNATURE

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Ex. 20-T

CELOTEX CORP. SEC No. 6426-7₂

QUOTATIONS

May 1952

1952		Volume	Open	High	Low	Close
5	1	5600	37	37 3/8	36 1/2	37
	2	3400	37 1/4	37 1/4	36 3/8	36 5/8
	3	3100	36 5/8	36 3/4	36 5/8	36 5/8
	4	7700	36 5/8	36 5/8	35 5/8	35 5/8
	7	3300	35 3/4	35 3/4	35 3/8	35 3/8
	8	3700	35 1/2	35 1/2	35 1/8	35 1/8
	9	2800	35 1/4	35 1/4	34 5/8	34 5/8
	10	2000	34 3/4	34 3/4	34 1/2	34 1/2
	11	6500	34 1/2	34 1/2	33 1/4	33 5/8
	14	4900	34	34 1/2	33 5/8	34 1/2
	15	1300	34 3/4	35	34 5/8	35
	16	1700	35	35 1/8	35	35
	17	2000	35	35 1/8	34 3/4	34 3/4
	18	2400	34 7/8	34 7/8	34 1/8	34 1/4
	21	3600	34	34	33 1/4	33 1/4
	22	4900	33	33 1/8	32 1/4	32 1/2
	23	6300	32 1/4	32 3/4	31 3/4	32
	24	3100	31 3/4	31 7/8	31 1/2	31 5/8
	25	4600	31 1/2	31 1/2	30 5/8	31
	28	16500	30 1/4	30 1/4	25	25 3/8
	29	18900	22	25 1/4	20 1/2	24
	30	MEMORIAL DAY				
	31	7100	26	27 1/2	26	26 1/2

Celotex Corp.

Quotations

June 1962

1962		Volume	Open	High	Low	Close
6	1	2900	26 3/4	26 3/4	26	26 1/8
	4	9600	26 1/4	26 1/4	24	24
	5	11500	24	26	24	25 7/8
	6	3000	26	27	26	27
	7	1800	27	27 7/8	27	27 1/4
	8	2400	27 1/2	28 5/8	26 3/4	28 3/8
	11	3900	28 1/4	28 1/4	26 3/4	26 3/4
	12	6500	26	26	23 1/4	23 1/4
	13	56400	20 1/2	21 1/4	19	20 5/8
	14	38600	20 1/2	20 1/2	16 1/4	16 1/2
	15	34600	17 3/4	21 3/4	17 3/8	21 1/2
	18	29500	20 5/8	21 1/4	19 1/4	19 1/4
	19	3900	19 1/4	20 7/8	19 1/4	20 1/2
	20	5800	20 5/8	21	20 1/4	20 1/4
	21	7100	23 7/8	23 7/8	23 3/4	23 3/4
	22	3200	23 5/8	23 5/8	23 1/2	23 1/2
	25	6800	23 3/8	23 3/4	23	23 1/4
	26	11100	23 1/4	23 3/8	22 5/8	22 5/8
	27	2200	22 5/8	23 1/8	22 5/8	23 1/8
	28	3700	23 1/2	23 5/8	23 1/8	23 1/2
	29					

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147-A

EL Bruce Co

May 1962

Trade Date	Open	High	Low	Last	Volume	Shares Purchased	Price Range on Shares Purch.	Shares Purch at Closing Price	Shares Sold	Price Range on Shares Sold
5-1-62	36⅜	36¼	36⅛	36¾	14,500	10 00	36⅛ - 36⅜	200	27 00	36⅛ - 36⅜
5-2-62	36⅛	37	36¾	37	52 00	22 00	36⅜ - 37 -	700	23 00	36¼ - 37 -
5-3-62	37	37¼	37	37⅛	6700	32 00	37 - 37¼	500	22 00	37 - 37⅛
5-4-62	37¼	37⅜	37⅛	37⅛	9900	37 00	37⅛ - 37⅜	1100	18 00	37¼ - 37⅛
5-7-62	37½	37⅝	37⅛	37⅛	8100	27 00	37⅛ - 37⅜	—	35 00	37¼ - 37⅜
5-8-62	37⅛	37¼	34¼	36⅛	116 00	57 00	34⅛ - 37 -	—	25 00	36 - 37⅜
5-9-62	35⅝	35⅜	35¼	35½	34 00	15 00	35⅛ - 35⅜	100	—	—
5-10-62	35½	35½	34	34⅝	58 00	25 00	34⅛ - 35½	300	—	—
5-11-62	35	35⅛	34⅛	34⅛	34 00	11 00	34⅛ - 35⅛	—	—	—
5-14-62	34¼	34⅝	34⅛	34⅛	29 00	2 00	34⅛ - 34⅝	200	—	—
5-15-62	34⅛	34⅜	33⅜	34	54 00	16 00	33⅛ - 34⅜	700	5 00	34 -
5-16-62	33⅞	34¼	33½	33¼	50 00	30 00	33⅜ - 34 -	900	—	—
5-17-62	33¼	33½	32½	32⅛	50 00	36 00	32½ - 33½	400	—	—
5-18-62	32½	33¼	31⅛	33⅛	57 00	46 00	31⅛ - 33⅛	500	7 00	32 - 32¼
5-21-62	33	33⅛	32¼	32¾	20 00	8 00	32¾ - 33 -	400	14 00	32¾ 33½
5-22-62	32¼	33	32½	32¼	22 00	16 00	32⅛ - 32¼	1000	3 00	32⅛ 32¾
5-23-62	32⅛	32⅛	31⅞	32⅛	—	—	—	—	8 00	32⅛ 32¾
5-24-62	32½	32½	32	32	26 00	27 00	31⅞ - 32½	600	2 00	32 - 32½
5-25-62	31½	32¼	30¾	32⅛	115 00	91 00	30¾ - 32⅜	200	15 00	31½ 32 -
5-28-62	30½	30¾	23	23	199 00	68 00	23 - 30½	—	36 00	23 - 30½
5-29-62	23	28¾	23	28⅜	105 00	43 00	23 - 28¾	—	10 00	23 - 28⅜
5-30-62										
5-31-62	28	28½	26	26½	56 00	50 00	26½ - 28 -	1300	14 00	26½ 27⅜

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E. F. Bruce Co
June 1962

Trade date	Open	High	Low	Last	Volume	Shares Purch	Price Range on Shares Purch	Shares Purchased Closing Price		Shares Sold	Price Range on Shares Sold
6-1-62	26½	26⅞	25	26⅜	5200	3700	25 – 26⅜	300		900	25 – 26½
6-4-62	26½	26½	23¾	24	6100	4600	23⅝ 24½	—		700	23⅝ 26½ –
6-5-62	23⅞	25	23½	24⅜	10200	4730	23½ 25 –	100		4400	23½ 25 –
6-6-62	24	24⅛	23¼	23¼	5900	1300	23¼ 24 –	100		2500	23¼ 24 –
6-7-62	23	23½	21⅛	22½	14700	5900	22¼ 25½	200		4900	21½ 25½
6-8-62	22⅛	22½	21¾	21¾	3700	600	21¾ 22 –	200		1300	18⅝ 22⅛
6-11-62	21⅛	21¾	18½	18⅝	14500	1000	19 – 20 –	—		3100	18½ 21½
6-12-62	19	20	14¾	15⅛	39000	—	—	—		3300	14¾ 20 –
6-13-62						200	14¾ 15			1200	10 – 22 –

149-A Ex. 21-U
Dkt#6426-TV

1

MANUFACTURERS HANOVER TRUST COMPANY
NEW YORK

DATE 5/28/62 | 129 BRANCH NO. | ACCOUNT NUMBER

ITEMS CHARGED TO YOUR ACCOUNT TODAY UNDER NOTICE

funds transferred today to a/c Edward M. Gilbert	34,694.68
TOTAL	34,694.68

Rhoded Enterprises, Inc.
660 Madison Avenue
DEBIT New York 21, New York

4252 11-61

1

MANUFACTURERS HANOVER TRUST COMPANY
NEW YORK

DATE 6/1/62 | 129 BRANCH NO. | ACCOUNT NUMBER

ITEMS CHARGED TO YOUR ACCOUNT TODAY UNDER NOTICE

funds transferred today to Edward M.Gilbert as intructed	13,194.
TOTAL	13,194.

Rhodes Enterprises,Inc.
660 Madison Avenue
DEBIT New York 21, New York

4252 11-61

1

MANUFACTURERS-HANOVER TRUST COMPANY
NEW YORK

DATE 6/1/62 | 129 BRANCH NO. | ACCOUNT NUMBER

ITEMS CHARGED TO YOUR ACCOUNT TODAY UNDER NOTICE

as instructed funds transferred today to a/c Edward M. Gilbert	27,145.88
TOTAL	27,145.88

E

Rhodes Enterprises Inc.
660 Madison Avenue
DEBIT New York, New York

4252 11-61

21-U

1

MANUFACTURERS HANOVER TRUST COMPANY
NEW YORK

DATE 6/5/62 | 129 BRANCH NO. | ACCOUNT NUMBER

ITEMS CHARGED TO YOUR ACCOUNT TODAY UNDER NOTICE

funds transferred today to Edward M.Gilbert as instructed	1,645.
TOTAL	1,645.

Rhodes Enterprises Inc.
660 Madison Ave
New York, New York

DEBIT

4252 11-61

1

MANUFACTURERS HANOVER TRUST COMPANY
NEW YORK

DATE 6/7/62 | 129 BRANCH NO. | ACCOUNT NUMBER

ITEMS CHARGED TO YOUR ACCOUNT TODAY UNDER NOTICE

funds transferred as instructed to account of Edward M. Gilbert	1,859.19
TOTAL	1,859.19

Rhodes Enterprises Inc.
660 Madison Avenue
New York, New York

DEBIT

4252 11-61

1

MANUFACTURERS HANOVER TRUST COMPANY
NEW YORK

DATE 6/8/62 | #129 BRANCH NO. | ACCOUNT NUMBER

ITEMS CHARGED TO YOUR ACCOUNT TODAY UNDER NOTICE

Transfer of funds to account Edward M. Gilbert to cover overdraft.	
TOTAL	68 11.1. 01.

Rhodes Enterprises, Inc.
660 Madison Avenue
New York 21, N. Y.

DEBIT

4252 11-61

HANOVER
MANUFACTURERS TRUST COMPANY
NEW YORK

1

Br. 129 OFFICE

ITEMS CHARGED TO YOUR ACCOUNT TODAY UNDER NOTICE

DATE 6/11/62

funds transferred today to a/c Edward M. Gilbert as instructed			
	23	687.	15
ACCOUNT NUMBER	TOTAL	23	687. 15

Rhodes Enterprises Inc.
660 Madison Avenue
New York, New York

DEBIT

4252 11-60

HANOVER
MANUFACTURERS TRUST COMPANY
NEW YORK

1

Br. 129 OFFICE

ITEMS CHARGED TO YOUR ACCOUNT TODAY UNDER NOTICE

DATE 6/12/62

funds transferred today to a/c Edward M. Gilbert as instructed			
	27	381.	39
ACCOUNT NUMBER	TOTAL	27	381. 39

Rhodes Enterprises Inc.
660 Madison Avenue
New York, New York

DEBIT

4252 11-60

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

E. L. BRUCE CO. (INCORPORATED),

Plaintiff,

-against-

McDONNELL & COMPANY, INC.,

Defendant and Stockholder,

-against-

TURID HOLTON,

Interpleaded Defendant-Claimant.

62 Civ.400

UNITED STATES OF AMERICA,

Intervenor,

-against-

E. L. BRUCE CO. (INCORPORATED), McDONNELL & COMPANY, INC., TURID HOLTON, EDWARD M. GILBERT and RHODA GILBERT,

Defendants-in-Intervention.

Deposition of E. L. BRUCE CO. (INCORPORATED), by THOMAS HARVEY CREECH, Vice-President, taken by Intervenor, United States of America, pursuant to Notice dated December 4, 1964, at the offices of the United States Attorney, Foley Square, U.S. Courthouse, New York City, before Guido Tascione, a Certified Shorthand Reporter and Notary Public of the State of New York, on January 22, 1965, at 10:45 A.M.

A No. We have certain other corporations, subsidiaries, which are inactive and are in the process of liquidation from our standpoint, we don't have these any more.

Q What are the names of these companies, if you know?

A Well, one is E. L. Bruce Sales Company, a California Corporation; Coralac Industries --

MR. FIELD: That was dissolved.

A (continuing) Sunset Pools has been sold. There are some other companies that we have had partial interest in that I am certain are in the process of liquidation, the names of which I can not give you.

Q Sir, what is your position with the Bruce Company at the present time?

A I am senior vice-president and secretary.

Q How long have you been senior vice-president and secretary?

A I have been senior vice-president for one year; I have been secretary since June 12, 1962.

Q How long have you been with the Bruce Company?

A Since 1930.

Q What position did you occupy with the company

prior to June 12, 1962?

A I was a vice-president in charge of sales.

Q Were you an officer prior to June 12, 1962?

A Yes. I was vice-president at that time.

Q Are you a director of the Bruce Company?

A Yes, I am.

Q How long have you been a director?

A I have been a director since 1961.

Q Can you tell me who were the other directors commencing in 1961, if you can recall? If any have resigned between 1961 to date, will you state the date of resignation.

A You want just some time in 1961?

Q Whenever you became a director. What date was that?

A I believe it was in March 1961.

I think I can give you the names of most of them.

E. L. Bruce, Jr., E. L. Fellman; F. H. O'Connor; Harry Gilbert; Edward M. Gilbert; Phil Weisberg; Henry M. Loeb. Let's see, there are two more.

(Discussion off the record.)

A (continuing) Let me continue with the list

company was still in Memphis.

Q When did you have this administrative office at 660 Madison Avenue?

A Well, as of September 1961, effective with the merger.

Q When did you close that office, New York office? I assume it is not here now.

A No. The office was closed as quickly as we could manage to do so after June 1962. I don't know the exact month.

Q You have mentioned that Mr. Edward Gilbert resigned on June 12, 1962.

A Yes.

Q Could you tell me the circumstances which brought about his resignation?

A His resignation occurred after the disclosure to the Board earlier that day -- this was at a special meeting of the Board of Directors -- that he had made unauthorized withdrawals of $1,953,000 of the company's funds. After quite a bit of discussion, his resignation was requested and was given.

Q You said it was disclosed. By whom?

A It was disclosed by a Mr. West of the firm of Shearman & Sterling, who had been, up until this

day, the corporation's attorneys.

Mr. West, at our board meeting that day, as one of the first orders of business after we had gone through certain routine matters, made a statement disclosing these unauthorized withdrawals and stating that he felt that he should withdraw as the corporation's attorney since he would be representing Mr. Gilbert's interests in certain of these matters.

Q Was this a director's meeting, this June 12 meeting?

A This was a Board of Directors meeting, yes.

Q Do you know who called that meeting?

A The meeting was called by the secretary, Mr. Polivy.

Q Where was this meeting held?

A It was held at the offices at 660 Madison.

Q And you attended that meeting?

A Yes.

Q Did you come up from Memphis to especially attend the meeting?

A Yes.

Q Was Mr. Bruce and Mr. Fellman also there?

A Yes.

Q They came from Memphis, also, I take it?

A Yes.

Q Sir, when did you find out for the first time about these unauthorized withdrawals?

A I found out the night of June 11, after I was in New York.

Q Would you tell me the circumstances under which you found out about these withdrawals?

A Well, the four of us from Memphis, the names you mentioned plus Mr. Frank O'Connor, came up on a late afternoon plane arriving in New York somewhere around 7:00 o'clock.

We were met at the airport by Mr. Harry Gilbert, who took Mr. Bruce and Mr. O'Connor in his automobile to the hotel, asked us to take a cab stating he had something to tell them.

So Mr. Fellman and I went on to the hotel, and we were phoned later by Mr. O'Connor saying that he, Mr. Bruce, Mr. Harry Gilbert and Mr. Edward Gilbert would be coming up to our room in a few minutes and wanted to make sure that we were there.

So they did come up, and at that time we were informed about these withdrawals.

Q Who informed you?

A Mr. Harry Gilbert led off the discussion and told us what had happened and then, of course, Edward Gilbert also explained portions of it.

Q Would you give me the substance of the discussion by Mr. Harry Gilbert?

A Well, basically, he said that Edward Gilbert had gotten himself in a tight spot through his purchases of Celotex stock and that he had made some withdrawals of the E. L. Bruce Company fund, without any authorization, to use this money to bolster his position to meet margin calls.

Q That was what Mr. Harry Gilbert said?

A That is right. He felt that this was done in the best interest of the corporation.

Of course, at this meeting, an attempt was being made to find some way to regularize these transactions by board action.

Q An attempt was being made by whom?

A By Mr. Gilbert.

Q That was Mr. Harry Gilbert and Mr. Edward Gilbert?

A Yes.

Q What did he do specifically? You said an attempt was made.

A Well, it was just a matter of discussion.

Q Could you tell me what discussion occurred?

A Well, here were four of us and two of them, members of the board, so I suppose a selling job on the fact that what he had done in connection with acquiring Celotex stock was for the long range advantage of E. L. Bruce Company and that he had taken this money and certainly he had not gone through the proper channels, and it was definitely admitted that this was unauthorized but that since it was in the best interest of the corporation and since he was going to make full restitution, which he had agreed to, that it was hoped that we could find some way in the board meeting the next day to ratify these actions.

Q You said that was what Mr. Gilbert proposed?

A Yes. I wouldn't say this is all in one presentation or in one speech, but this was basically what he was attempting to accomplish during the course of the conversation.

Q You said there were four of you from Memphis and two of them.

A Yes.

Q What did the four of you say, or any of you?

A Well, I was more or less in a state of shock

at this time, and we found it very difficult to understand exactly what had happened.

We principally -- we made no commitment, first of all, as to what we would do the next day at the formal board meeting, but principally we were asking questions just to find out what had happened and when it had happened and so forth.

Q Did you personally participate in this discussion?

A Yes.

Q What did you say?

A I am afraid I can't recall.

Q To the best of your recollection.

A Well, it was basically asking questions, "Well, when did this happen?" It was this type of thing.

Actually, it was one of those conversations, because of the fact that there was a group of people who had worked together very closely and had confidence in each other.

It was such a shocking development to all of us that we would sit there with long periods of silence, maybe three or four minutes. Nobody knew what to say. It was certainly not a normal and usual business conversation.

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Q What did Edward Gilbert say?

A He said that he had certainly taken the money and he realized that he was wrong, he had not gotten authorization on it but that he was going to pay every penny back and that he had already made arrangements for doing so.

He mentioned the fact that he had already assigned all of his assets to the company. I think he went into a description of the value of some of these things, such as the paintings and the stamp collection. And he was telling about how much money they were worth and that this would undoubtedly take care of the full amount of his debt.

Q Did he say what he had used the money for?

A Yes. To meet margin calls on stock.

Q Was that stock purchased in Gilbert's name?

A Yes.

Q This was on the 11th of June, 1962?

A That is correct.

Q What time was this?

A I would say that probably by the time that the two Gilberts and Mr. Bruce and Mr. O'Connor reached our room, it was somewhere around 9:00 o'clock 9:00 P.M.

Q And this was your hotel room?

A Our hotel room.

Q What hotel, do you recall?

A I think we were staying at the Savoy Hilton.

Q What time did that meeting break up?

A Oh, 10:30, 11:00 o'clock.

Q Were all four of the Memphis directors staying at the same hotel?

A Mr. Bruce was staying at another hotel; three of us were staying there.

Q Did the Gilberts leave before Mr. Bruce left?

A Yes.

Q Did the four Memphis directors, including yourself, have any discussion after the Gilberts left?

A Yes.

Q What discussion occurred at that time?

A Well, of course, we were rehashing the situation, the developments that we just learned. We were trying to evaluate our position.

We talked about the possible effects on the organization, the morale of the organization back in Memphis.

discussed, but I would like to have the conversation, if he recalls any conversation.

A I am afraid I can't, after this length of time, really recall.

Q The substance.

A The substance was basically "This is a hell of a note and what are we going to do now? This is going to be a terrific impact on the organization," and this type of thing.

Q How long did this meeting last between the four Memphis directors?

A Well, it was not a meeting as such. It was -- we just had not left out -- they had not left our room.

I would say probably it was midnight before the rest of them left and we all went to bed.

Q And the directors meeting was the following day, June 12?

A The following day, yes.

Q Where was that meeting held?

A That was at 660 Madison, at the office.

Q Who was present at that directors meeting?

A All of the group that I have mentioned to you as being members of the board, with one exception.

I believe this was Tom Lenagh who was not there.

The minutes of the meeting will reflect this.

Q Were any persons present at that meeting other than the directors?

A Yes. There were a room full of attorneys. There was Mr. West, whom we knew, of course, who was at that moment the corporation's counsel; there were two or three men from Webster, Sheffield, whom we did not know at this time, but who were introduced to us.

I believe that there were -- either Mr. Cahill or someone from his office there.

Q That is the Cahill, Gordon firm?

A Yes. He had come at the request of Mr. Loeb.

Q You said the four Memphis directors learned of this situation on the night of the 11th.

Did you have any conversation with the other directors, meaning the directors other than the two Gilberts and the four Memphis directors, on the 11th or on the 12th before the meeting?

A I can't remember specifically any conversation.

Incidentally, I remember one more director

whose name I forgot to give you, and that was Norman Mason.

I do remember that we went into Norman Mason's office and sat there, and we did not have any direct conversation about this situation because office employees were coming back and forth and we just didn't get into discussing this matter.

Q Was Mr. Mason an officer in addition to being a director?

A No. He was not an officer or an employee of the corporation.

Q But he did have an office at 660 Madison Avenue?

A He had an office because he was an officer of a subsidiary corporation that was partially owned by E. L. Bruce Company.

Q What company was that?

A American International Housing.

Q Mr. Loeb and Mr. Weisberg, did they have offices at the premises 660 Madison Avenue?

A No, they did not.

Q Did you have any conversation with them at any time prior to the meeting on June 12?

A I would say that generally we did not because

I personally did not. It is possible that some of our people did. But because of the somewhat opening layout of the office up there, with people coming in and out, we did not get involved in any great discussion other than a very, very casual one of the events that we had learned about.

Furthermore, we were over there only a short time before the meeting actually started.

Q What time did the meeting start?

A Again, the minutes would reflect this and I can't say exactly. I think it was soon after 9:00.

Q That was the morning of the 12th?

A The morning of the 12th.

Q Who presided over that meeting?

A E. L. Bruce, Jr., who was chairman of the board and who regularly presided at the meetings.

Q Was Mr. Bruce a stockholder at that time?

A He may have had minor stockholdings, yes.

Q But he was a minor stockholder?

A Yes.

Q Is he presently a stockholder, to your knowledge?

A Yes.

Q Was Mr. Bruce an officer at that time?

A He was chairman of the board.

Q But he didn't have any office other than being chairman of the board?

A No, he was not the chief executive officer.

Q What happened? You say you arrived at the meeting about 9:00 o'clock.

A Yes.

Q What happened when you arrived at the meeting?

A I don't know that we had a formal agenda. This meeting had been called by telegram.

But Mr. West, I believe, suggested that we get out of the way certain very routine matters, like approving the minutes of the previous meeting and taking care of a request for replacement of a lost stock certificate, and one or two items of this nature.

Then Mr. West said that he had a statement on a matter of great importance to the company and to the board, and his statement was that several days ago, Mr. Edward Gilbert had come to one of Mr. West's associates and had revealed to him that he had taken, without authorization, certain funds of the Bruce Company to bolster his position in the purchase of Celotex stock, and that this conversation had been reported to Mr. West.

They informed Mr. Gilbert that this was a serious situation and that a full disclosure would have to be made to the board of E. L. Bruce Company and that a special meeting of the board of directors must be called for this purpose.

Then Mr. West displayed an assignment that Mr. Gilbert had given him at one of the meetings they had had before the board meeting, an assignment of all of his assets, including stock in Celotex and Bruce, some of his paintings, his stamp collection and certain equities in real estate, to make good, more or less, his promise that he was going to repay every penny of these, what he called loans, back to the Bruce Company.

Q Was there any discussion about what Mr. West had told the board among the board members?

A Oh, yes.

One other thing, Mr. West at this point, as I mentioned previously, said that since he had known the Gilbert family and been representing them for many years, he felt that his firm should withdraw as the corporation's attorney and recommend that the board appoint the firm of Webster, Sheffield, representatives of whom were present, which we then did.

There was a discussion, certainly, at this point about what Mr. West had told us. Our principle need at the moment was to turn some of these assets which had been assigned to us into cash at the quickest possible time because we had rather substantial bank loans.

There was a discussion of the Celotex stock which Edward Gilbert owned being purchased by the Ruberoid Corporation, and we felt, from much of the morning, that this would be accomplished, until we heard from the Ruberoid -- got a message from the Ruberoid people, who were also in session at a board meeting, that the proposal that they purchase the Celotex stock had been turned down.

Q Was this offer to purchase Gilbert's Celotex stock?

A Both Gilbert's and certain holdings that E. L. Bruce Company had.

Q How much did E. L. Bruce Company have in Celotex, if you recall?

A I would like to refresh my memory.

THE WITNESS: If you have any records here --

MR. FIELD: In excess of 70,000 shares.

THE WITNESS: This was E. L. Bruce Company's holdings?

MR. FIELD: Yes.

Q Do you know how much Gilbert had?

A I don't know personally, no. It was 150 or something of this sort.

MR. FIELD: Thousand?

THE WITNESS: Yes.

A In these discussions, the representation was made by Mr. Gilbert that if this Ruberoid deal went through and some of these other assets that he had assigned to us could be sold promptly, that this would pay back all of this money that he had taken from the company.

Q Do you know who negotiated the Ruberoid deal?

A I do not.

Q Do you know if any of the Bruce directors negotiated it, other than the Gilberts, of course?

A I think it is possible that perhaps Mr. Loeb was working on this.

MR. FIELD: You don't know this?

Q You have no knowledge?

A I don't know.

Q You mentioned certain bank loans that the

Bruce Company had made.

Would you tell me what loans you were referring to?

A Well, these were loans with several of the banks we had been doing business with that were made more or less without -- certainly without my knowledge and without the knowledge of some of the other of us in Memphis.

We at this point had no information about the size of these loans or the size of our total bank indebtedness.

Q Did the directors ask for a report on these loans at the meeting?

A Yes.

Q Did you get a report?

A Yes.

Q Do you recall what the report reflected?

A No.

Q Do you know who negotiated those loans?

A Well, I am sure that Mr. Gilbert and possibly another officer negotiated them.

Q Do you know where the Bruce Company got the money to pay this approximately two million dollars

which Gilbert exacted from the company?

A These funds came from the bank loans, yes.

Q The Bruce Company had a treasurer at that time, I take it?

A Yes.

Q Who was the treasurer?

A John Lee.

Q Was he in Memphis?

A He was in Memphis.

Q Could you tell me what the procedure was for withdrawing funds from the Bruce Company bank accounts at that time?

A Funds from the bank accounts?

Q Yes.

A You are talking about writing a check?

Q Yes.

A The bank resolutions --

MR. FIELD: He is talking about writing a check.

THE WITNESS: Yes, not about a loan. He is talking about writing a check.

MR. FIELD: That is right.

A Bank resolutions for the banks at which we had deposits provided that checks were to be signed

Little Rock and Nashville and Bruce, Mississippi, and others. Franklin National, also; yes.

Q Did the board of directors take any action on these proposals that were brought to its attention by Mr. West on June 12th?

A Well, I mean --

Q Were any resolutions passed?

A What proposals do you mean?

Q You mentioned that Mr. West outlined that an assignment had been given, that these withdrawals had been made.

Were any resolutions passed by the board of directors in connection with anything you mentioned?

A Yes. The morning actually was spent in more or less getting the facts about what had occurred and also a discussion of the value of these various assets and particularly in connection with this Ruberoid offer.

About noon or about 1:00 o'clock, the attorney present, and this would be then Mr. West representing Mr. Gilbert and the Webster, Sheffield people, and I believe Mr. Cahill, stated that they would get together and come up with certain recommendations as to what was to be done next.

There was a recess there of some 45 minutes to an hour.

When we came back, the group of attorneys -- I believe Mr. Webster at this point was acting as the spokesman -- said that certain things should be done immediately and these were -- and all of these were then passed in a resolution or a series of resolutions by the board, that Mr. Gilbert resign as a director and president of the company and, secondly, that Mr. Polivy resign as secretary of the corporation, that a new president and a new secretary be elected at this meeting, which was done.

That a full disclosure of the facts should be made to the SEC and American Stock Exchange; that the auditors should be notified and instructed to make a thorough and complete audit of the company's financial affairs; and that an appropriate public statement be made, given to the press that evening.

Q Did he talk about referring this to the district attorney?

A It was not done that day.

Q But was there a reference to this?

A I do not know.

Q Do you know who would know that, whether

there was any reference to the district attorney?

A Well, I think probably the attorneys there would.

Q But you say there was no discussion along those lines?

A About whether or not we should --

Q Refer it to the district attorney.

A No.

Q You mentioned ar assignment of all of Mr. Gilbert's assets.

Do you know when that assignment was drawn? Was it drawn before the meeting?

A It was dated before the meeting, yes.

Q Was this handed out to the dictors? How was it presented?

A It was not passed -- copies were not made and it was not passed around. It was just displayed and the contents of it were given in a general way.

Q Has the Bruce Company collected any amounts pursuant to this assignment or under the assignment?

A Well, my understanding is that the Government has a tax lien on these assets which prevents us from --

MR. FIELD: Claims, Mr. Creech, if you please.

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Q But they have not collected any amount?

A We have collected a small amount of cash from the sale of the interest in real estate in France, apparently which the Government did not file any tax lien.

Q Do you know how much you got from the real estate?

A I have a note on that, yes. $2,774.

MR. DUNNAVILLE: Off the record.

(Discussion off the record.)

Q Did anything else happen at the meeting which you have not mentioned here today?

A After this Ruberoid matter had blown up, after we found out that their board was not interested, there was discussion of possible other purchasers of Mr. Gilbert's interest in both Celotex and Bruce.

He said that some people were in town or were coming in town that evening, that afternoon, that might take out his position and provide funds that would be helpful in this situation.

He left the meeting, he said, to go talk to these prospective purchasers.

We spent -- I personally spent quite a bit of time with the attorneys on the preparation of the

release that was to be sent to the newspapers. We never did really adjourn the meeting, although we were through with much of the business as far as we could get some time in the afternoon, around 3:00 o'clock, I would say, or 4:00 o'clock, because we were waiting for Mr. Gilbert to come back and give us a report on what happened when he talked to these prospective purchasers of this stock. Of course, he did not come back.

Finally, about 8:00 o'clock, we received word by phone that he was -- that the deal had fallen through, so we adjourned the meeting.

Q You remained at the meeting from 9:00 that morning to 8:00 that night?

MR. FIELD: No. He said he left.

A We did not adjourn the meeting. Most of the people -- everyone stayed on the premises, but I think Mr. Harry Gilbert left. But most of the rest of us stayed on the premises.

I was in another room working on the press release and this type of thing from maybe 4:00 o'clock on.

Q What time did Mr. Edward Gilbert leave the meeting?

A To the best of my recollection, it was around 3:00 o'clock.

Q First, from whom did you receive word that the deal had fallen through?

A I believe Mr. Harry Gilbert had left with Eddie Gilbert, and he phoned back and he said -- the switchboard had been closed at this time and a phone rang where it was plugged in, and someone answered it and came in and said Mr. Gilbert, Harry Gilbert, was on the phone and said the deal had fallen through. I can't recall who had gotten the message.

Q The meeting still had not adjourned at that time?

A No.

Q So what happened after that?

A I think at this point -- this was around 8:00 o'clock -- we knew that they were not coming back and there was no point in staying around there any further, so we did at that time adjourn the meeting.

Q Were there any discussions with the directors who were still there at that time, when you received the phone call?

A Well, I think the feeling was "Well, this does it and we might as well quit. There is nothing

NOTICE OF LEVY

Date	Name of 3rd Party	Reply
6/29/62	William H. Place & Co.	No assets
"	Employers Mutual Liability Co.	" "
"	Waldorf Astoria Hotel	" "
"	Jerome International Corp.	" "
"	U.S. Fire Insurance Co.	Rec. $150
"	Appleton & Cox, Inc.	Rec. $236.89
"	Maritime Insurance Co.	No assets
"	Chubb & Sons Inc.	" "
"	Federal Insurance Co.	" "
"	Reliance Insurance Co.	" "
6/28/62	Schiff Terhune, Inc.	" "
6/29/62	Tobey & Kirk	" "
"	Chemical Bank N.Y. Trust Co.	" "
"	Astor & Rose	" "
"	Stern Philanthropic Fund Inc.	" "
7/6/62	Hornblower & Weeks	Life Ins. Policy
7/10/62	Mutual Benefit Life Ins. Co.	" " "
"	New England Mutual Life Ins. Co.	No assets
"	Marine Midland Trust Co.	" "
"	First National Bank of Jersey City	" "
"	Union Commerce Bank	" "
"	Cleveland Trust Co.	" "
"	Bowden & Bullock	" "
"	Mr. Charles Evans % Evan-Picone, Inc.	" "
6/22/62	Franklin National Bank	" "
"	Mitchell & Co.	" "
"	Chase Manhattan Bank	" "
"	Grace National Bank	T/p overdrawn
"	Manufacturers Hanover Trust Co. (44 Wall)	No assets
"	Trade Bank & Trust Co.	T/p overdrawn
"	Manufacturers Hanover Trust Co. (1460 Bdwy)	No assets
"	Dreyfus & Co.	" "
"	Grauberg, Marache & Co.	" "
"	Harris Upham & Co.	" "
"	Ira Haupt & Co.	" "
"	Carl M. Loeb, Rhoades & Co.	" "
"	Celotex Corporation	" "
"	Chemical Bank NY Trust Co.	" "
"	Chase Manhattan Bank (Transfer Agt., Celotex Corp. Common Stock	Rec. $18,622
"	E. L. Bruce & Co.	No assets
6/25/62	Royal State Bank	" "
"	1st National City Bank of N.Y.	Safe Dep. Box
"	5th Ave. Bank Safe Deposits Vaults Inc.	No assets
"	Chemical Bank NY Trust Co.	" "
"	Reynolds & Co.	" "
"	Mfrs. Hanover Trust Co. (Trans. Agt., Gen'l Builders)	

U. S. TAX COURT
Resp't Ex. X
APR 22 1975
Marked for Identification
Received in Evidence
Docket No. 6426-72

SCHEDULE B

Date	Name of 3rd Party	Reply
6-25-62	Bankers Trust Co. (Agent for Ford)	No Assets
"	Morgan Guaranty Trust (Litton)	" "
"	Morgan Guaranty Trust (General Builders)	" "
"	Bank of New York	Rec'd $4646.61
"	McDonnell & Co.	No Assets
6-26-62	Union Planters Bank (Edward and Rhoda Gilbert)	1. 48,499 shares of El Bruce Inc.
	Discharged no value	2. 4% sub. notes face value $900,000
		No Assets
6-25-62	1st National Bank of Chicago	" "
6-26-62	Dutch American Mercantile Corp.	" "
"	L.F. Rothschild & Co.	" "
"	Lafayette National Bank	" "
"	Monmouth City National Bank	" "
6-27-62	Lakeview Trust & Savings Bank	Stamp Collection
"	Wildenstein & Co.	Received 700 shares of West Indies & Caribbean Development Ltd.
"	Murray Koven	No Assets
6-28-62	Ford Motor Co.	" "
"	Joseph Golum Agency	" "
"	David C. White Agency Inc.	
6-29-62	Franklin National Bank (Agent General Builders)	" "
		" "
"	Strauss & Co.	" "
"	Continental Insurance Co.	Rec'd $3943.14
"	EF Hutton & Co.	Rec'd $150.00
"	Centennial Insurance Co.	No Assets
7-24-62	F.t. Tryon Venture c/o M.L. Schreiber & Co.	
"	Chase Manhattan Bank (As Registrar for Flicor Corp.)	" "
		" "
"	Barclays Bank DCO	
"	First National City Bank of N.Y. (as trans agent for Flicor Corp.-	No Assets
		No Assets
"	Theatre 1961 c/o Pinto, Winokur & Pagan	" "
7-25-62	Acteon Productions Corp.	" "
8-1-62	First National Bank of Chicago	No Assets
8-3-62	Farley & Loetscher Mfg. Co. c/o Herbet Schoenbrod-	No Assets
8-6-62	Farley & Loetscher Mfg. Co. c/o Herbert Schoenbrod-	No Assets
8-22-62	Parge Electric Corp.	" "
"	F.t. Tryon Apartments Inc.	

Date	Name of 3rd Party		Reply
8/22/62	Wilbur D. Layman, Att'y (Escrow Holder) % Kindel & Anderson (On the Gilberts)		41 Shares of Solvere Inc.
8/23/62	First National Bank of Jersey City (as trans. agent for common stock of Manning, Maxwell& Moore, Inc.)		No assets
8/24/62	Franklin National Bank of L.I. (as trans. agent for common stock of: 1. All State Properties 2. Triangle Lumber Corp.)		" "
"	Old Colony Trust Co. (as trans. agent for common stock of Howard Johnson Co.		" "
"	First National City Trust Co. (as trans agent for common stock of Columbia Pictures Corp.)		" "
"	Marine Midland Trust Co. (as trans. agent for common stock of Fedders Corp.)		" "
"	Bank of N.Y. (as trans. agent for common stock of Fairchild Camera & Instrument Corp.)		" "
7/10/62	Le Club Inc.		" "
"	Goodkind Neufeld & Co. Inc.	common stock of - -	E.L. Bruce & Co.
"	McDonnell & Co.		No assets
7/12/62	Vanden Broeck Lieber		" "
"	J. Henry Schroder Banking Corp		" "
"	Jacques Sarlie		41 shares held in escrow
7/16/62	Solvere Inc.		No assets
"	Data Sensors Inc.		" "
"	Commercial Bank of North America		
"	Tobe G. Krandel Associates	Receiving Payments - - -	1% wkg interest in stripping well owned by Sun Oil Acct. #11040. Monthly Royalty of about $4.40 a mo.
"	Sun Oil Co.		
			No assets -
7/17/62	Maxwell Rubin % Allan A. Rubin		Paintings
"	Day & Meyer Murray & Young Corp.		No assets
"	New Hope Solebury Bank		" "
"	J.R. Williston & Beane		" "
"	The Bank of N.Y. (as trans. agent for Heublein, Inc.)		" "
"	Petronomics Inc.		$282.50
"	Seymour Kalb % E.L. Bruce & Co. Inc. -	Rec.	No assets
"	Writers Stage Co. Ltd.		" "
7/18/62	Morgan Guaranty Trust Co. (as Registrar for Heublein,Inc.)		" "
"	Bankers Trust Co. (as trans. agent for Celanese Corp. of America)		" "
7/19/62	First National City Bank of N.Y. (as Registrar for Celanese Corp. of America)		
7/24/62	Solvere Inc.	41 shares held in escrow (see Levy of 7/16/62)	

NOTICE OF LEVY

Date	Name of 3rd Party		Reply
6/25/62	Bankers Trust Co.		No assets
8/24/62	Chase Manhattan Bank (as Trans. Agent for common stock of: 1. Rohr Aircraft Corp. 2. Howard Johnson Co.)		" "
"	Morgan Guaranty Trust Co. (as Trans. Agent for Common stock of: 1. Manning, Maxwell & Moore, Inc. 2. McCrory Corp. 3. Allis Chalmers Mfg. Co. 4. Monsanto Chemical Corp.)		No Assets " " " " " " " "
"	Bankers Trust Co. (as Trans Agent for common stock of: Fischback & Moore Inc.)		" "
9/14/62	First National Bank of N.Y.		" "
"	Chase Manhattan Bank		- "
10/22/62	Pennsylvania Turnpike Commission		" "
11/13/62	Public Service Mutual (Bail Bond)	Rec.	$2,319.74
5/22/63	Northerlin Co. Inc.	Rec.	$2,784.45
11/15/63	Chemical Bank N.Y. Trust Co.		Stamp Collection
12/20/63	Smithsonian Institute		

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The following is a list of liens filed by the U. S. government:

Where Filed	Date Filed
1. New York County Registors Office	6/22/62
2. Kings County " "	"
3. Queens County " "	"
4. Nassau County " "	"
5. Suffolk County " "	"
6. Richmond County " "	"
7. Bronx County " "	"
Chicago, Illinois	
8. Cook County	6/22/62
9. Celotex Corp.-Lien & Levy	"
10. First National Bank of Chicago-Lien & Levy	6/28/62
11. Lakeview Trust Co. - Lien & Levy	"
Louisville, Kentucky	
12. Jefferson County	6/22/62
Memphis, Tennessee	
13. Shelby County	6/22/62
14. E. L. Bruce & Co. - Levy only	"
15. Union Planters Bank of Memphis-Lien & Levy	Form 2209
Jacksonville, Florida	
16. Dade County	6/25/62
17. Broward County	7/21/62
18. Palm Beach County	6/25/62
California	
19. Bank of America in Los Angeles-Lien & Levy	7/3/62
Michigan	
20. Ford Motor Co. - Lien & Levy	Form 2209
New Jersey	
21. Monmouth County National Bank of Red Bank-Lien & Levy	7/9/62
Pennsylvania	
22. Philadelphia County	6/28/62
23. Bucks County	"
New York	
24. Morgan Guaranty Trust Co.-Lien & Levy	6/25/62
25. Fifth Ave. Safe Deposit Vault Inc. Lien & Levy	6/26/62
26. First National City Bank of N. Y. " "	6/25/62
27. Franklin National Bank of Franklin Sq. Lien & Levy	6/22/62

U. S. TAX COURT
Petr's Ex. 24
APR 22 1975
Marked for Identification
Received in Evidence
Docket No. 6426-72

	Where Filed		Date Filed
28.	L. F. Rothschild & Co.	Lien & Levy	6/26/62
29.	Dutch American Mercantile Corp.	" "	"
30.	Bankers Trust Co.	" "	6/25/62
31.	Lafayette National Bank	" "	6/26/62
32.	Chemical Bank N.Y.Trust Co.	" "	"
33.	Chase Manhattan Bank	" "	6/22/62
34.	Manufacturers Hanover Trust Co.	" "	"
35.	McDonnell & Co. Inc.	" "	6/26/62
36.	Reynolds Inc.	" "	"
37.	Wildenstein & Co. Inc.	" "	6/27/62
38.	David G. White Agency-Levy only		6/28/62
39.	Schiff Terhune Inc.	" "	"
40.	Joseph Golub Agency	" "	"
41.	West Indies & Caribbean Development Ltd.		6/27/62
42.	Royal State Bank - Levy only		6/25/62
43.	Carl M. Loeb, Rhodes & Co. - Levy only		6/22/62
44.	Dreyfus & Co.	" "	6/22/62
45.	Ira Haupt & Co.	" "	"
46.	Grace National Bank	" "	"
47.	Trade Bank & Trust Co.	" "	"
48.	Harris Upham & Co.	" "	"
49.	Granberry & Harache & Co.	" "	"
50.	Mitchell & Co.	" "	"
51.	Bank of New York	" "	6/25/62
52.	Jerome International Corp., Room 1007, 745 5th Av., NYC	Lien & Levy	6/29/62
53.	Stern Philanthropic Fund Inc., Room 1807, 745 5th Av., N.Y.C.	" "	"
54.	Maritime Insurance Co.Policy #3113719, 111 John St., N.Y.C.	"	"
55.	Reliance Insurance Co. Policy #3469531, 25 Cliff St., N.Y.C.	Lien & Levy	"
56.	Federal Insurance Co. Policy #FPP 44033986, FWC 76032910; Pol.77033082-90 John St., N.Y.C.	Lien & Levy	"
57.	Continental Insurance Co. Pol.PFC 14028, 80 Maiden Lane, N.Y.C.	Lien & Levy	"
58.	Centennial Insurance Co., Pol. 2N3093, 45 Wall St., N.Y.C.	Lien & Levy	"
59.	U. S. Fire Insurance Co., Policy 311-4014, 110 William St., NYC.	" "	"
60.	Employers Mutual Liability Co. of Wisconsin, 485 Lexington Av., New York City	" "	"
61.	Chemical Bank NY Trust Co., 20 Pine St., N.Y.C.	" "	"
62.	Franklin National Bank of Franklin Square, L.I., N. Y.	" "	"
63.	Astor & Ross - 111 Broadway, NYC.	" "	"
64.	Waldorf Astoria Hotel-50th St. & Park Av., N.Y.C.	" "	"
65.	William H. Place & Co., 50 Broad St., N.Y.C.	" "	"
66.	Tobey & Kirk, 52 Wall St., N.Y.C.	" "	"
67.	Strauss & Co., 40 Exchange Pl.,NYC	" "	7/6/62
68.	Hornblower & Weeks, 40 Wall St.NYC	" "	7/10/62

Where Filed		Date Filed
69. Mr. Charles Evans, 1407 Broadway N.Y.C.	Lien & Levy	7/12/62
70. Goodkind Neufeld & Co. Inc., 711 5th Av., N.Y.C.	" "	"
71. LeClub Inc., 416 E. 55 St., N.Y.C.	" "	"
72. Bowden & Bullock, 137 W.48th St., N.Y.C.	" "	"
73. Day & Meyer Murray & Young Corp., 1166 2nd Av., N.Y.C.	" "	7/17/62
74. Writers Stage Co., Ltd., 50 Central Pk.W., N.Y.C.	" "	"
75. Seymour Kalb, 660 Madison Av., N.Y.C.	" "	"
76. Jacques Sarlie, 745 5th Av., N.Y.C.	" "	7/13/62
77. Vanden Book Lieber, 125 Maiden Lane, N.Y.C.		"
78. J. Henry Schroder Banking Corp., 57 Broadway, N.Y.C.		"
79. The Mutual Benefit Life Insurance Co., 100 William St., N.Y.C. Policy 3336966		7/12/62
80. Marine Midland Trust Co., 120 Broadway, N.Y.C.		"
81. Cleveland Trust Co., Cleveland, Ohio		7/10/62-2209
82. Union Commerce Bank, Cleveland, Ohio		7/10/62-2209
83. New England Mutual Life Insurance Co., Boston, Mass.		7/10/62-2209
84. Commercial Bank of North America, 116 5th Av., NYC		To be filed
85. George S. Ireland, Jr., Rt.#1, Newton, Bucks County, Pa.		7/13/62-2209
86. Tobe G. Krandel Associates, San Jocinte Bldg., Houston 2, Texas		7/17/62-2209
87. Chambers County, TExas		" "
88. Sun Oil Company, P.O.Box 2831, Beaumont, Texas		" "
89. Henderson & Seggins, Commerce Bldg., Houston, Tex.		7/18/62 "
90. Selvere, Inc., 1902 W.Chestnut St., Santa Ana, Cal.		7/17/62 "
91. Data Sensors, Inc., 13112 Cranshaw Blvd., Gardena, Cal.		" "
92. Asteen Productions Corp., 3960 Broadway, N.Y.C.		To be filed
93. Emergran Productions Co., c/o Gene Wessen, 322 E. 93rd St., N.Y.C.		To be filed
94. J.R.Williston & Beane, 115 Broadway, N.Y.C.		To be filed
95. Petrionics, Inc., 230 Park Av., NYC		To be filed
96. New Hope Salsbury Bank, New Hope, Pa.		7/18/62-2209
97. Maxwell Rubin, c/o Alan A. Rubin, 32NLaSalle St., Chicago		" "
98. Barclays Bank, 120 Broadway, NYC		To be filed
99. E.F. Hutton & Co., 61 Broadway, NYC - Levy only		6/29/62
100. Babylon Joint Venture, c/o Harry Gilbert, 50 East 77th St., N.Y.C.		To be filed
101. Sutherlin Group Associates, c/o Harry Gilbert, 50 W. 77th St., N.Y.C.		To be filed
102. Ft. Tryon Venture, c/o M.S.Schreiber & Co. 271 Madison Av., N.Y.C.		To be filed
103. Theatre 1961, c/o Pinto, Winakur & Pagan 580 5 Av., NYC		" "

The following assets are held by the U. S. Government or tied up by lien:

(1) Safe Deposit Box - contents unknown belonging to Rhoda Gilbert.

(2) 700 shares Caribbean Development Ltd. in I.R.S. vault.

(3) Lien filed in Bucks County, Pa. - Bristol Township property.

(4) Stamp collection at Willenstein.

(5) Paintings in warehouse of Day & Mayer, Murray & Young Corp.

(6) Liens at Mutual Benefit Life and New England Life against cash surrender value of both policies amounting to $4,200.00.

(7) Income of $4.00 per month from oil lease with Sun Oil Co.

(8) Notice of Lien and Levy against Salvere, Inc., Data Sensars, Inc. and Wilbur D. Layman (Escrow holders for shares).

(9) Lien with Chase Manhattan Bank of N.Y.C. transfer agent for Celotex stock.

(10) Lien with Mfrs. Hanover Bank transfer agent for E. L. Bruce stock.

(11) Lien with Franklin National Bank Registrar for Bruce stock.

(12) Lien & Levy against First National Bank of Chicago and Farley & Loetscher.

(13) Lien and levy against the following banks in which stock might have been placed as collateral against loans:

(a) Union Planters National Bank of Memphis.
(b) Royal State Bank of N. Y.
(c) Chemical Bank N.Y. Trust Co.
(d) First National City Bank of N.Y.C.
(e) Commercial Bank of North America
(f) Trade Bank and Trust Co.
(g) First National Bank of Monmouth, N. J.
(h) Morgan Guarantee Trust Co.
(i) Bank of N. Y.
(j) Lafayette National Bank

(14) Lien and levy with Stern Philanthropic Fund and Jerome International, Inc.

(15) Lien and levy with E. L. Bruce Co.

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T. C. Memo. 1976-104

UNITED STATES TAX COURT

EDWARD M. GILBERT, Petitioner, v. COMMISSIONER OF INTERNAL REVENUE, Respondent.

Docket No. 6426-72. Filed April 1, 1976.

Frank G. Raichle, for the petitioner.

Larry Kars, for the respondent.

Decision entered April 1, 1976

SERVED APR 1 1976

MEMORANDUM FINDINGS OF FACT AND OPINION

QUEALY, Judge: The respondent determined a deficiency in the Federal income tax return of the petitioner in the amount of $1,467,536.51 for the taxable year 1962. The issues for our decision are as follows:[1]

1. Whether the petitioner must include in his income for the taxable year 1962 unauthorized withdrawals that he made from E. L. Bruce Co., Inc.

2. If so, what amount, if any, is the petitioner entitled to deduct for repayments to E. L. Bruce Co., Inc. during the taxable year 1962.

FINDINGS OF FACT

Some of the facts have been stipulated. Such facts and the exhibits attached thereto, are incorporated herein by this reference.

Edward M. Gilbert, (hereinafter sometimes referred to as "petitioner") resided in New York, New York at the

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[1] The respondent in his notice of deficiency disallowed a deduction for interest in the amount of $41,076.66 and a deduction for taxes in the amount of $1,963.20. The petitioner has presented no evidence with regard to these deductions.

time of the filing of his petition herein. He was a cash basis taxpayer. For the taxable year 1962 he filed a Federal income tax return with the District Director of Internal Revenue, New York, New York.

Prior to 1958 petitioner and some associates acquired a company known as Empire National Corporation which was engaged in the lumber supply business. In September of 1958, the petitioner and his associates acquired control of E. L. Bruce Co., Inc., which was engaged in substantially the same line of business.

From September 1958 until June 12, 1962, the petitioner was first Chairman of the Executive Committee and later President, the principal executive officer and a director of E. L. Bruce Co., Inc. (hereinafter referred to as the "Bruce Company") and its predecessor corporations.

During this same period the petitioner was also the major stockholder of the Bruce Company and the principal executive officer of Rhodes Enterprises, Inc., all of whose issued and outstanding stock he beneficially owned. Petitioner also beneficially owned and controlled the Empire Hardwood Flooring Corporation.

In 1961 and 1962 the petitioner personally and Rhodes Enterprises, Inc. undertook the purchase of a large number of shares of the Celotex Corporation. All such stock acquired by the petitioner and Rhodes Enterprises, Inc. was purchased on margin. Petitioner pledged all of his stock of the Bruce Company as collateral for loans to purchase Celotex stock.

At the regular meeting of the board of directors of the Bruce Company on January 8, 1962, the petitioner read the following statement:

> I wish to advise you in strictest confidence, of what I believe may prove at some future time to be a matter of great importance to the Bruce Company. For a number of years, I have been investigating the business and potential of the Celotex Corporation, with which I think you are all generally familiar. Celotex has about 1,000,000 shares of common stock outstanding, the current market being about 33. The Company has a book value greatly in excess of the present market, and I believe it offers a great profit potential which is not now being realized. Over the course of the last year or so, I have acquired about 50,000 shares of Celotex stock at an average cost of between 30-32 a share, or an aggregate cost somewhat in excess of $1,500,000. It is my present belief that if a substantial amount of Celotex stock were held in friendly hands it might be possible at some future date to offer Bruce stock, securities and cash in exchange for the outstanding Celotex shares, but I believe that such an exchange offer at the present time would be risky and not timely. However, should the Board be of a different view, I am prepared to offer Bruce my present Celotex holdings at my cost. If the Board does not wish to acquire these holdings at this time I may dispose

> of them elsewhere. However, if at any future time the Board determined that it was in the corporate interest to pursue the Celotex matter further and to propose an exchange of Bruce securities for Celotex shares, it would be my intention to make my holdings available to Bruce at my cost for the purpose of facilitating any such transaction.

At that time it was the consensus of the directors present that the Bruce Company should not accept the petitioner's offer as set forth in the statement.

On March 5, 1962, at the regular meeting of the board of directors of the Bruce Company, the petitioner read the following statement:

> At our meeting on January 8, 1962 I reported to you with respect to the Celotex Corporation. Since that date I have disposed of the 50,000 shares of common stock of The Celotex Corporation I then owned but, presently, I expect to purchase additional shares and I wish to reiterate my offer to make any such shares available to this Corporation at my cost.
>
> On the basis of information presently available to me it appears that if a combination of this Corporation and The Celotex Corporation can be effected on a reasonable basis, such a combination would be in the best interests of this Corporation
>
> * * *
>
> While I have not solicited any support from The Celotex Corporation shareholders, or made or received any commitments from any of them, a number of my friends and acquaintances agreeing with my appraisal of The Celotex Corporation have purchased a substantial number of shares. It is my belief that, at present, approximately 400,000 shares of the common stock of The Celotex Corporation, out of a total of 1,028,651 outstanding, are in the hands of persons who would favor a combination of it with this Corporation. * * *

Pursuant to recommendations by petitioner and after some discussion, the board passed a resolution which stated:

> RESOLVED, that the Chairman of the Board, the President, and the Executive Vice President be, and each hereby is, authorized to expend in the aggregate up to $400,000 of the funds of this Corporation to purchase shares of the Common Stock of The Celotex Corporation, at such price or prices as the officer expending such funds may deem advisable; that said officers be, and each hereby is, authorized to consult with Lazard Freres & Co. and Carl M. Loeb, Rhoades & Co., or either of them, to secure their recommendations with respect to the financial basis on which a combination of this Corporation with The Celotex Corporation could be effected; that said officers be, and each hereby is, authorized to discuss the combination of this Corporation and The Celotex Corporation with the management of The Celotex Corporation; and that said officers be, and each hereby is, authorized to make such further investigations of The Celotex Corporation as the officer making the same may deem advisable.

On April 17, 1962, at a special meeting of the board of directors of the Bruce Company, on the petitioner's suggestion, the board,

> RESOLVED, that the authorization to purchase $400,000 of stock of The Celotex Corporation granted at the Board of Directors meeting of March 5, 1962, be hereby increased by $1,000,000., plus proceeds from the liquidation of non-current assets, plus the proceeds received from any increase in the Connecticut Mutual Life Insurance Company Note to the extent of $1,800,000; and
>
> RESOLVED, that any officer of the Corporation be authorized to open an account with Lazard Freres & Co., for the purpose of purchasing stock in The Celotex Corporation as authorized by the Board of Directors.

In addition to the shares purchased by petitioner and Rhodes Enterprises, Inc., on margin, Bruce itself purchased substantial amounts of Celotex stock. Petitioner also induced friends and associates of his to purchase Celotex stock, guaranteeing them against loss. By the end of May 1962, among the Bruce Company, petitioner and his associates, 56 percent of the outstanding stock of Celotex was in hand and available for the merger. Negotiations for the merger had proceeded to the point in late May where it was agreed that certain directors of the Bruce Company would be placed on the board of Celotex.

In late April 1962, petitioner went to Nevada to establish a residence in order to obtain a divorce.

During the latter part of May 1962 while petitioner was still in Nevada, there was a severe decline in the price of the stock of both Celotex and the Bruce Company. Petitioner was thereupon called upon to furnish additional margin for the Celotex stock purchased by him and his associates.

Ostensibly, in order to provide the funds to meet these margin calls, petitioner caused a series of checks to be drawn on the account of the Bruce Company, payable

to Rhodes Enterprises, Inc., or to Empire Hardwood Flooring Corporation, totaling $1,958,000. On June 5, 1962, Empire Hardwood Flooring Corporation repaid $5,000 of this amount.

During this period, the petitioner also initiated negotiations to sell the stock of Celotex held by the Bruce Company, petitioner, and Rhodes Enterprises, Inc. to the Ruberoid Company. A meeting of the board of directors of Ruberoid Company was called to be held on June 12, 1962, in order to consider such proposal.

On June 8, 1962, petitioner went to the office of Sherman, Sterling and Wright who were counsel for the Bruce Company at the time. Mr. Robert N. West, a partner in the firm, prepared promissory notes in the aggregate amount of $1,953,000, together with an assignment to the Bruce Company of all of petitioner's property, both real and personal. The promissory notes executed by the petitioner were predated to coincide with the dates of the unauthorized withdrawals.

The assignment executed by the petitioner on June 8, 1962, was predated May 28, 1962, and included cash in banks, stocks and other investments, real estate, paintings and other art objects, a stamp collection and various "participations."

The fair market value of the cash, securities and other property assigned by the petitioner on June 8, 1962, to secure the promissory notes of the petitioner aggregating $1,953,000 substantially exceeded the face amount of said notes on June 8, 1962, and on June 12, 1962.

A special meeting of the board of directors of the Bruce Company was held on June 12, 1962. At that meeting, Mr. Robert N. West informed the board of directors that petitioner had made or caused to be made a series of unauthorized withdrawals of the Bruce Company in the total amount of $1,953,000, describing the circumstances leading up to the withdrawals and the manner in which they were made. Mr. West also reported the negotiations with Ruberoid Company for the sale of the Celotex stock at a price of $36 per share, and informed the board of directors that this offer had been rejected. The board of directors then requested and received the resignation of the petitioner as a director and president of the Bruce Company and the resignation of Irwin Polivy as secretary of the Bruce Company. Following a discussion of the possibility of recovery of the unauthorized withdrawals made by the petitioner, the board of directors instructed petitioner to continue his negotiations for the sale of the Celotex stock and to report back later that day. Thereupon, the minutes record the following:

On motion, duly made and seconded, the following resolutions were unanimously adopted:

RESOLVED, that the proper officers of the Corporation be and hereby are authorized and directed to request Peat, Marwick, Mitchell & Co., the Corporation's auditors, to conduct an examination of the Corporation's books and report to the Board at the earliest possible moment.

FURTHER RESOLVED, that the proper officers of the Corporation be and they hereby are authorized and directed to inform the Regional Office of the Securities and Exchange Commission, the American Stock Exchange, the Connecticut Mutual Life Insurance Company and the Seaboard Surety Company of the disclosures made to the meeting today.

FURTHER RESOLVED, that the proper officers of the Corporation be and they hereby are authorized to release for publication the following statement:

"Mr. E. L. Bruce, Jr., Chairman of E. L. Bruce Co. (Incorporated) announced that at a meeting of the Board of Directors held today Edward M. Gilbert has resigned as President and as a Director and that Mr. Bruce has been elected President. He will also continue as Chairman. Mr. Bruce stated that Mr. Gilbert's resignation followed his disclosure to the Board of Directors today that between May 28th and June 6th he had made unauthorized withdrawals from the Corporation in the amount of $1,953,000. He also reported that the Corporation had a surety bond in the amount of $750,000. Special counsel retained in connection with this matter, Bethuel M. Webster and Frederick Sheffield of Webster Sheffield Fleischmann Hitchcock & Chrystie, had been instructed to present the facts to the Securities & Exchange Commission and the American Stock Exchange.

> Mr. Bruce said that prospects for the company were bright and that sales are currently running approximately 30% above the levels of last year."

The Board then discussed measures which should be taken to protect the interests of the Corporation, and on motion, duly made and seconded, it was

> RESOLVED, that special counsel for the Corporation, be and they hereby are authorized and directed to consider the measures which should be taken to protect the interests of the Corporation as a result of the disclosures made to this meeting, and to take any and all action which they deem appropriate, including the bringing of legal action against Edward M. Gilbert.

As a result of what transpired at the meeting of June 12, 1962, including the threat of possible criminal prosecution, petitioner flew to Brazil that evening. As a result of the announcement of petitioner's unauthorized withdrawals of funds from the Bruce Company and his flight to Brazil, there was a sharp decline in the market price of the stock of the Bruce Company. The stock had opened on the American Stock Exchange at a price of $19 per share and traded at a high of $20 per share. It thereafter traded as low as $14.75 per share and closed at $15.75 per share. On the following day, prior to the suspension of trading, the stock was changing hands in the range of $10 to $10.50 per share. The stock of Celotex was likewise adversely affected. As a result, the Bruce Company stock and the

Celotex stock owned by the petitioner and held as collateral or in margin accounts were sold. Neither the Bruce Company nor the petitioner realized any funds as a result of such sales.

On June 13 or June 14, 1962, the Bruce Company attempted to file petitioner's assignment. The Bruce Company was informed by the County Clerk's office that there would be a filing fee of between $10,000 and $15,000 for the mortgage recording tax because real estate was included in the assignment. The Bruce Company chose not to pay the filing fee and, accordingly, did not file the assignment.

Notices of Federal tax liens in the sum of $3,341,743.95 were filed on June 22, 1962, with respect to the income tax liabilities of petitioner and Rhoda Gilbert for the taxable years 1958, 1959, 1960 and 1962. The above liens were filed with respect to joint jeopardy assessments of income taxes made against Edward and Rhoda Gilbert for the taxable years 1958, 1959 and 1960 in the respective amounts of $3,836.40, $1,119,164.80 and $494,986.20. Also, a joint assessment was made June 25, 1962, in the amount of $1,723,776.[2]

During the first week of November 1962, petitioner returned from Brazil to New York. On November 5, 1962,

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[2] The 1958 assessment has been paid in full. The 1959 and 1960 deficiencies and penalty, as determined by the Tax Court, have been paid.

acknowledging an indebtedness to the Bruce Company of $1,953,000, petitioner executed a second assignment, this time omitting real property. On November 27, 1962, a consent judgment in favor of the Bruce Company in the sum of $1,953,000 plus interest was entered against petitioner.

On September 25, 1964, pursuant to an indictment filed against the petitioner on June 28, 1962, in the United States District Court for the Southern District of New York, petitioner entered a plea of guilty to devising a scheme to defraud and to obtain money by means of false and fraudulent pretenses, representations and promises from the Bruce Company in the amount of $1,953,000; to transporting and causing to be transported in foreign commerce from New York to Paris, France, securities and monies of a value in excess of $5,000, knowing the same to have been stolen, converted and taken by fraud; to failing to file with the American Stock Exchange and the Securities and Exchange Commission a statement indicating petitioner's beneficial ownership in the Bruce Company and changes therein for the month of May 1962.

On February 2, 1967, pursuant to an indictment for grand larceny, filed against petitioner on July 9, 1962, by a New York County grand jury, petitioner entered a plea of guilty to counts five, six and ten. Count five of the indictment charged:

> Said defendant, in the County of New York, on or about May 29, 1962, with intent to deprive and defraud another of property, and of the use and benefit thereof, and to appropriate the same to his own use, and to the use of someone other than the true owner, stole property from E. L. Bruce Co. (Incorporated) having an aggregate value of $340,000, to wit, a check dated May 29, 1962, drawn on the account of E. L. Bruce Co. (Incorporated) at the Manufacturers Hanover Trust Company, payable to the order of Rhodes Enterprises, Inc.

Count six of the New York County indictment charged petitioner with the same charge as count five above with the exception that the date of the larceny was June 1, 1962, and the amount of the larceny was $490,000. Count ten of the New York County indictment charged petitioner with the same charges as count five above with the exception that the date of the larceny was June 6, 1962, and the amount of the larceny was $287,000.

For the fiscal year ended June 30, 1962, the Bruce Company claimed a loss deduction on its books and records which included the unauthorized withdrawals of $1,953,000.

The respondent determined that the petitioner received income in the amount of $1,953,000 in the taxable year 1962 consisting of the unauthorized funds withdrawn from the Bruce Company and converted to personal use. The respondent also disallowed certain deductions for interest and taxes.

OPINION

In the taxable year 1962 the petitioner admittedly caused checks to be drawn on the account of the Bruce Company totaling $1,958,000, of which $5,000 was repaid. The balance of $1,953,000 was diverted to the petitioner's use. Under the doctrine of James v. United States, 366 U.S. 213 (1961), petitioner is hereby chargeable with having realized income in the amount of his unauthorized withdrawals of funds from the Bruce Company. See also Rutkin v. United States, 343 U.S. 130 (1952); Norman v. Commissioner, 407 F.2d 1337 (3rd Cir. 1969), affg. per curiam a Memorandum Opinion of this Court; Buff v. Commissioner, 496 F.2d 847 (2nd Cir. 1974), revg. 58 T.C. 224 (1972); Howard B. Quinn, 62 T.C. 223 (1974), affd. 524 F.2d 617 (7th Cir. 1975). Respondent has thus determined that petitioner realized the sum of $1,953,000 as taxable income in the year of the withdrawals.

During the same taxable year, petitioner tendered to the Bruce Company promissory notes for the full amount of the unauthorized withdrawals, secured by an assignment of all of petitioner's assets, including cash in banks, securities (most of which were pledged as collateral),

real estate, art works, a stamp collection, and other investments. At the time that petitioner tendered his notes and assignment to the Bruce Company, the fair market value of the assets exceeded the amount of the notes. It is a fair assumption that if the Bruce Company had elected to accept the petitioner's tender, a sufficient amount could have been realized to make it whole. However, the board of directors of the Bruce Company refused to accept the petitioner's notes and assignment in payment of the withdrawals. Being threatened with possible criminal prosecution, the petitioner "panicked" and fled to Brazil.

Upon disclosure of the petitioner's unauthorized withdrawals and flight to Brazil, the stocks of both the Bruce Company and of Celotex were adversely affected. Petitioner's "equity" in these stocks was wiped out. The Internal Revenue Service made jeopardy assessments against the petitioner for income taxes allegedly due totaling $3,341,743.95, thereby preventing the sale or realization by Bruce Company in the taxable year 1962 of the value of the other assets covered by the assignment.

In filing the petition herein, counsel for the petitioner contended that the execution by the petitioner of the notes and the assignment of his assets to cover the

amount of the unauthorized withdrawals resulted in a "consensual recognition" of his liability for such withdrawals, thereby negating the realization of income. Petitioner's position was predicated on the decision of this Court in Wilbur Buff, 58 T.C. 224 (1972). Unfortunately, our decision was reversed on appeal to the Second Circuit (496 F.2d 847). This Court is compelled to follow such reversal. Jack E. Golsen, 54 T.C. 742 (1970), affd., 445 F.2d 985 (10th Cir. 1971), cert. denied 404 U.S. 940 (1971).

The facts in this case are also distinguishable from the Buff case. There, the employer accepted Buff's offer of repayment in the first instance. In the case of the Bruce Company, petitioner's offer was rejected. The board of directors was unwilling to accept petitioner's notes and assignment in substitution for the Company's claim against the petitioner on account of the unauthorized withdrawals.

Applying hindsight, it is apparent that the Bruce Company may have exercised poor judgment in its handling of the indebtedness due from the petitioner. If the

Bruce Company had acted differently, the full amount may well have been recouped within the taxable year. The petitioner attempted to make full restitution. However, we cannot give him credit for his good intentions.

Decision will be entered for the respondent.

205-A

UNITED STATES TAX COURT
WASHINGTON, D.C. 20217

EDWARD M. GILBERT,
Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Docket No. 6426-72

DECISION

Pursuant to the determination of the Court as set forth in its Memorandum Findings of Fact and Opinion filed April 1, 1976, it is

ORDERED AND DECIDED: That there is a deficiency in income tax due from the petitioner for the taxable year 1962 in the amount of $1,467,536.51.

(Signed) William H. Quealy
Judge

Entered: APR 1 1976

U.S. GOVERNMENT PRINTING OFFICE 16—63008-6

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

- -X

EDWARD M. GILBERT, :

Appellant, : Docket No. 76-4170

-against- : CERTIFICATE OF SERVICE BY MAIL

COMMISSIONER OF INTERNAL REVENUE, :

Appellee. :

- -X

I, ROBERT D. WHORISKEY, Attorney for Appellant, hereby certify that on the 22nd day of November 1976, service of the appendix was made by mailing three copies to Appellee by postpaid mail, addressed as follows:

Mr. Gilbert E. Andrews
Chief, Appellate Section
United States Department of Justice
Washington, D.C. 20530
Att: F. Arnold Heller, Esq.

Robert D. Whoriskey

Robert D. Whoriskey